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*Washington, Wednesday, September 24, 1941*

## *The President*

### REMOVAL OF CERTAIN RESTRICTIONS ON EXPORTATIONS OF ARMS TO CUBA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

#### A PROCLAMATION

WHEREAS, by a proclamation of the President issued on June 29, 1934, under a joint resolution of Congress approved by the President on January 31, 1922, it was declared that there existed in Cuba conditions of domestic violence which were or which might be promoted by the use of arms or munitions of war procured from the United States; and

WHEREAS, by virtue of the joint resolution and proclamation above-mentioned it became unlawful to export arms or munitions of war to Cuba except under such limitations and exceptions as should be prescribed:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, do hereby declare and proclaim that, as the conditions in Cuba which prompted the issuance of the proclamation of June 29, 1934, have ceased to exist, the said proclamation is hereby revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the city of Washington this 22nd day of September, in the year of our Lord nineteen hundred [SEAL] and forty-one, and of the Independence of the United States of America the one hundred and sixty-sixth.

FRANKLIN D. ROOSEVELT

By the President:

CORDELL HULL,  
*Secretary of State.*

[No. 2511]

[F. R. Doc. 41-7092; Filed, September 22, 1941; 2:30 p. m.]

## *Rules, Regulations, Orders*

### TITLE 7—AGRICULTURE

#### CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

[41-Tob-56—Sup. 2]

#### PART 727—FLUE-CURED TOBACCO

##### SUPPLEMENT 2 TO MARKETING QUOTA REGULATIONS,<sup>1</sup> FLUE-CURED TOBACCO, 1941-42 MARKETING YEAR

Marketing Quota Regulations, Flue-cured Tobacco—1941-42 Marketing Year, are hereby amended as follows:

Section 727.255 is amended by striking out paragraph (b) of such section and inserting in lieu thereof the following:

§ 727.255 *Warehouseman's records and reports.*

(b) *Identification of sale on check register.* The serial number of the memorandum of sale issued to identify each marketing of tobacco from the farm or the number of the warehouse bill(s) covering each such marketing shall be recorded on the check register or check stub for the check written with respect to such sale of tobacco.

By virtue of the authority vested in the Secretary of Agriculture under Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938, 52 Stat. 31, 7 U.S.C. 1301 et seq.), as amended, he does make, prescribe, and publish the foregoing amendment to the Marketing Quota Regulations—Flue-cured Tobacco—1941-42 Marketing Year, designated 41-Tob-56, issued by the Secretary on July 23, 1941, which regulations, as amended, shall be in full force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture.

Done at Washington, D. C., this 23rd day of September 1941. Witness my

<sup>1</sup> 6 F.R. 3661, 3999.

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hand and the seal of the Department of Agriculture.

[SEAL] GROVER B. HILL,  
Acting Secretary of Agriculture.

[F. R. Doc. 41-7120; Filed, September 23, 1941;  
11:38 a. m.]

## TITLE 16—COMMERCIAL PRACTICES

### CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 3427]

#### PART 3—DIGEST OF CEASE AND DESIST ORDERS

##### IN THE MATTER OF POND'S EXTRACT COMPANY

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Scientific or other relevant facts.* In connection with offer, etc., in commerce, of respondent's cosmetic creams and lotions, or any substantially similar products, (1) representing in any manner whatever that respondent's creams or lotions have any added beneficial value by reason of their vitamin A content; (2) representing that its cold cream causes lines, wrinkles or blemishes to disappear from the skin, or that it prevents the formation of lines, wrinkles or blemishes in the skin; (3) representing that its cold cream has any appreciable effect upon the underskin, that it liberates the underskin, or leaves the underskin free to function; and (4) representing that dirt, make-up or other impurities below the surface of the skin may be softened, loosened, or lifted from the underskin through the use of respondent's cold cream; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Pond's Extract Company, Docket 3427, September 10, 1941]

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 10th day of September, A. D. 1941.

This proceeding having been heard<sup>1</sup> by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before William C. Reeves and John J. Keenan, examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by William L. Pencke, counsel for the Commission and by Blake and Voorhees, counsel for the respondent, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

<sup>1</sup> 4 F.R. 1247.

It is ordered, That the respondent, Pond's Extract Company, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as commerce is defined in the Federal Trade Commission Act, of its cosmetic creams and lotions, or any products of substantially similar composition or possessing substantially similar properties, do forthwith cease and desist from:

(1) Representing in any manner whatever that respondent's creams or lotions have any added beneficial value by reason of their vitamin A content;

(2) Representing that respondent's cold cream causes lines, wrinkles or blemishes to disappear from the skin, or that it prevents the formation of lines, wrinkles or blemishes in the skin;

(3) Representing that respondent's cold cream has any appreciable effect upon the underskin, that it liberates the underskin, or leaves the underskin free to function;

(4) Representing that dirt, makeup or other impurities below the surface of the skin may be softened, loosened, or lifted from the underskin through the use of respondent's cold cream.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order. By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 41-7103; Filed, September 23, 1941;  
11:20 a. m.]

[Docket No. 3500]

#### PART 3—DIGEST OF CEASE AND DESIST ORDERS

##### IN THE MATTER OF RENAUD SALES COMPANY, INC., ET AL.

§ 3.66 (k) *Misbranding or mislabeling—Source or origin—Place—Domestic product as imported:* § 3.96 (a) *Using misleading name—Goods—Source or origin—Place—Domestic product as imported.* In connection with offer, etc., in commerce, of perfumes and other products, and among other things, as in order set forth, using the terms "Paris", "Renaud Paris", "Renaud Paris 1817", "Made in France", or any other terms, words, symbols, or pictorial representations indicative of French or other foreign origin, on or in connection with products which are made or compounded in the United States, prohibited; subject to the provision, however, that the country or countries of origin of the various ingredients of any such product may be stated when immediately accompanied by a statement that such product is made or compounded in the United



States. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Renaud Sales Company, Inc., et al., Docket 3500, September 16, 1941]

§ 3.66 (k) *Misbranding or mislabeling—Source or origin—Maker:* § 3.87 (c) *Simulating competitor or his product—Name, containers, or dress of competitor's product:* § 3.96 (a) *Using misleading name—Goods—Source or origin—Maker.* In connection with offer, etc., in commerce, of perfumes and other products, and among other things, as in order set forth, using the terms "Renaud Paris" or "Renaud Paris 1817" on or in connection with products not made or compounded by the Societe Anonyme Renaud Paris 1817; or using on or in connection with such products containers or labels simulating the containers or labels used on or in connection with products of the Societe Anonyme Renaud Paris 1817; or otherwise representing, importing or implying in any manner that products not made or compounded by the Societe Anonyme Renaud Paris 1817 are made or compounded by or are the products of that company: prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Renaud Sales Company, Inc., et al., Docket 3500, September 16, 1941]

*In the Matter of Renaud Sales Company, Inc., a Corporation, Murray W. Morin, Irving Unterman, and Irving Lipschitz, Individually and as Officers of Renaud Sales Company, Inc.*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of September, A. D. 1941.

This proceeding having been heard<sup>1</sup> by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, testimony and other evidence in support of the allegations of said complaint and in opposition thereto taken before an examiner of the Commission theretofore duly designated by it, report of the trial examiner and exceptions thereto, and brief in support of the complaint (respondents not having filed brief and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

*It is ordered,* That respondents Renaud Sales Company, Inc., a corporation, and respondents Murray W. Morin, Irving Unterman, and Irving Lipschitz, individually and as officers of the corporate respondent, their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of perfumes and other products in commerce, as "commerce" is defined

in the Federal Trade Commission Act, do forthwith cease and desist, directly or indirectly:

(1) From using the terms "Paris," "Renaud Paris," "Renaud Paris 1817," "Made in France," or any other terms, words, symbols, or pictorial representations indicative of French or other foreign origin, on or in connection with products which are made or compounded in the United States: *Provided, however,* That the country or countries of origin of the various ingredients of any such product may be stated when immediately accompanied with a statement that such product is made or compounded in the United States;

(2) From using the terms "Renaud Paris" or "Renaud Paris 1817" on or in connection with products not made or compounded by the Societe Anonyme Renaud Paris 1817; or using on or in connection with such products containers or labels simulating the containers or labels used on or in connection with products of the Societe Anonyme Renaud Paris 1817; or otherwise representing, importing, or implying in any manner that products not made or compounded by the Societe Anonyme Renaud Paris 1817 are made or compounded by or are the products of that company.

*It is further ordered,* That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 41-7104; Filed, September 23, 1941; 11:21 a. m.]

[Docket No. 4350]

#### PART 3—DIGEST OF CEASE AND DESIST ORDERS

##### IN THE MATTER OF SPENCER SYSTEM, ET AL.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* In connection with offer, etc., in commerce, of courses of instruction in the fabrication of foot supports and foot exercisers and in the treatment and correction of foot troubles, and among other things, as in order set forth, representing that respondents' course of instruction, or any substantially similar course of instruction, will equip any one with learning and proficiency adequate to (1) diagnose and determine whether or not foot troubles require surgical treatment; (2) effectively and successfully treat non-surgical foot troubles, regardless of origin or cause thereof; and (3) effectively and successfully treat substantially all cases of foot troubles, conditions, or diseases, including flat foot, distorted toes, weak feet, pain-

ful heel, aching, sweaty, or too dry feet, callouses, chilblains, foot neuralgia, hammer or Morton's toe, stretched ligaments, enlarged joints, and bunions; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Spencer System, et al., Docket 4350, September 12, 1941]

§ 3.6 (f) *Advertising falsely or misleadingly—Demand or business opportunities.* In connection with offer, etc., in commerce, of courses of instruction in the fabrication of foot supports and foot exercisers, and in the treatment and correction of foot troubles, and among other things, as in order set forth, representing that any purchaser who masters respondents' correspondence course is assured of a profitable business or will be able to obtain trade without solicitation, delay, or expense, prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Spencer System, et al., Docket 4350, September 12, 1941]

*In the Matter of Spencer System, a Massachusetts Trust, and John L. Shea, William J. Hagerty, Jean G. Mitchie, and Glenna S. Hills, Individually and as Trustees of Said Trust*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of September A. D. 1941.

This proceeding having been heard<sup>1</sup> by the Federal Trade Commission upon the complaint of the Commission and the answer of respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint, except the allegations that Jean G. Mitchie and Glenna S. Hills are trustees of respondent Spencer System, and waive all intervening procedure and further hearing as to said facts; and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

*It is ordered,* That the respondents, Spencer System, a Massachusetts trust, its trustees, officers, agents, representatives, and employees, and John L. Shea and William J. Hagerty, individually and as trustees of said trust, and Jean G. Mitchie and Glenna S. Hills individually, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of courses of instruction in the fabrication of foot supports and foot exercises and in the treatment and correction of foot troubles, do forthwith cease and desist from directly or by implication:

(1) Representing that respondents' course of instruction, or any substantially similar course of instruction, will

<sup>1</sup> 4 F. R. 188.

<sup>1</sup> 6 F. R. 2890.



equip any one with learning and proficiency adequate to:

(a) Diagnose and determine whether or not foot troubles require surgical treatment;

(b) Effectively and successfully treat non-surgical foot troubles, regardless of origin or cause thereof;

(c) Effectively and successfully treat substantially all cases of foot troubles, conditions, or diseases, including flat foot, distorted toes, weak feet, painful heel, aching, sweaty, or too dry feet, callouses, chilblains, foot neuralgia, hammer or Morton's toe, stretched ligaments, enlarged joints, and bunions;

(2) Representing that any purchaser who masters respondents' correspondence course is assured of a profitable business or will be able to obtain trade without solicitation, delay, or expense.

*It is further ordered*, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 41-7105; Filed, September 23, 1941;  
11:21 a. m.]

[Docket No. 4431]

#### PART 3—DIGEST OF CEASE AND DESIST ORDERS

##### IN THE MATTER OF COPINOL COMPANY

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Safety:* § 3.71 (e) *Neglecting, unfairly or deceptively, to make material disclosure—Safety.* Disseminating, etc., in connection with offer, etc., of respondent's "Copinol" medicinal preparation, or any other substantially similar preparation, any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said preparation, which advertisements represent, directly or through inference, that said preparation (1) is a cure or remedy for head colds, catarrh-choked nose or throat, nasal catarrh or sinus congestion, or has any therapeutic value in the treatment of such conditions in excess of furnishing temporary relief to congested nasal mucous membranes, (2) will rid the nose and throat of, or will protect the nose from, germ-laden mucus, (3) will instantly clear the head, and (4) will afford relief to congested nasal passages more quickly and for a

longer period of time than similar preparations; or which advertisements fail to reveal that respondent's medicinal preparation "Copinol" should not be used by persons suffering from heart trouble, high blood pressure, diabetes, or thyroid trouble, and that the use of said preparation over a long period of time is likely to produce prolonged nasal constriction resulting in tissue damage from anoxemia; prohibited; subject to the provision, however, that if the label of said preparation contains a warning of the potential dangers in the use of said preparation, as hereinabove set forth, such advertisements need contain only the cautionary statement: "Caution, use only as directed on the label." (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Copinol Company, Docket 4431, September 12, 1941]

#### *In the Matter of Robert E. Overell, Individually and Trading Under the Style and Firm Name of Copinol Company*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 12th day of September, A. D. 1941.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, and a stipulation as to the facts entered into between the respondent herein and Richard P. Whiteley, Assistant Chief Counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure the Commission may issue and serve upon the respondent findings as to the facts and its conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act;

*It is ordered*, That respondent, Robert E. Overell, individually or trading under the name of Copinol Company, or trading under any other name, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of his medicinal preparation designated "Copinol", or any other preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails or by any means in commerce, as commerce is defined in the Federal Trade Commission Act, which advertisement represents, di-

rectly or through inference, that said preparation

(a) is a cure or remedy for head colds, catarrh-choked nose or throat, nasal catarrh or sinus congestion, or has any therapeutic value in the treatment of such conditions in excess of furnishing temporary relief to congested nasal mucous membranes;

(b) will rid the nose and throat of, or will protect the nose from, germ-laden mucus;

(c) will instantly clear the head;

(d) will afford relief to congested nasal passages more quickly and for a longer period of time than similar preparations;

2. Disseminating or causing to be disseminated any advertisements by means of the United States mails or by any means in commerce, as commerce is defined in the Federal Trade Commission Act, which advertisement fails to reveal that respondent's medicinal preparation "Copinol" should not be used by persons suffering from heart trouble, high blood pressure, diabetes, or thyroid trouble, and that the use of said preparation over a long period of time is likely to produce prolonged nasal constriction resulting in tissue damage from anoxemia: *Provided, however*, That if the label of said preparation contains a warning of the potential dangers in the use of said preparation, as hereinabove set forth, such advertisements need contain only the cautionary statement: "Caution, use only as directed on the label."

3. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof, or which fails to comply with the requirements set forth in paragraph 2 hereof.

*It is further ordered*, That the respondent shall, within ten (10) days after service upon him of this order, file with the Commission an interim report in writing stating whether he intends to comply with this order, and, if so, the manner and form in which he intends to comply; and that, within sixty (60) days after the service upon him of this order, said respondent shall file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 41-7106; Filed, September 23, 1941;  
11:22 a. m.]



**TITLE 30—MINERAL RESOURCES**  
**CHAPTER III—BITUMINOUS COAL**  
**DIVISION**

[Docket No. A-854]

**PART 321—MINIMUM PRICE SCHEDULE,**  
**DISTRICT NO. 1**

**FINDINGS OF FACT, CONCLUSIONS OF LAW,**  
**MEMORANDUM OPINION AND ORDER IN THE**  
**MATTER OF THE PETITION OF DISTRICT**  
**BOARD 1 FOR REVISION OF PRICE CLASSIFI-**  
**CATIONS AND EFFECTIVE MINIMUM PRICES**  
**FOR ALL SHIPMENTS FOR COALS IN SIZE**  
**GROUP 3 PRODUCED AT VIADUCT MINE**  
**(MINE INDEX NO. 570) OF THE VIADUCT**  
**COAL COMPANY, A CODE MEMBER IN DIS-**  
**TRICT 1**

An original petition in this proceeding was filed with the Bituminous Coal Division by District Board 1 on May 3, 1941, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937. The petition prays for temporary and final orders revising the price classifications and effective minimum prices for all shipments for coals in Size Group 3 produced at the Viaduct Mine (Mine Index No. 570) of the Viaduct Coal Company, a code member in District 1. The petition requests that the price classifications for this mine be changed from "F" to "H" for Size Group 3 coals for rail shipment and a change in price from \$2.25 to \$2.10 per ton for the same size group for truck shipment. It also requests that the location of this mine be changed from Subdistrict 1 to Subdistrict 5 in District 1.

Pursuant to an appropriate order of the Director, and after due notice to interested persons, a hearing in this matter was held on July 15, 1941, before Joseph D. Dermody, a duly designated Examiner of the Division, Washington, D. C. All interested parties were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. Only original petitioner appeared. The preparation and filing of a report by the Examiner were waived and the matter was thereupon submitted to the undersigned.

The evidence adduced at the hearing on this matter indicates that the Viaduct Coal Company operates the Viaduct Mine (Mine Index No. 570). The coals of this mine in Size Group 3 were originally classified by District Board 1 as "F" for rail shipment and assigned a price of \$2.25 per ton for shipment by truck. It was listed as being in Subdistrict 1, operating in the A Seam. The mine produced only mine run coal; it has not operated since 1937.

According to the testimony of witness Geyer, an investigation of the location of this mine was made by District Board 1 on April 4, 1941. Field engineers went to the mine and determined the areas being operated by this Company and the location of the mine with respect to adjoining mines. The mine's opening was found to be located about 1 mile east of the Clarion-Jefferson County line, which is the common boundary line

between Subdistricts 1 and 5 in District 1. The property worked appears to be well within the boundaries of Subdistrict 5.

Temporary relief in Docket No. A-356 was granted by Order of the Director, dated February 15, 1941, 6 F.R. 1040, whereby the size groups for mines in Subdistrict 1 of District 1 were reduced from 11 to 5. Temporary prices for this mine for truck shipments were established in the same docket for all size groups, with a price of \$2.25 per ton for Size Group 3. The final Order of the Director in Docket No. A-356 made the reduction in size groups permanent and priced the truck coals the same as the rail coals of these size groups. Coals for the Viaduct Mine (Mine Index No. 570) for Size Group 3 were priced at \$2.20 per ton.

The evidence further indicates that a mine operated by John Woodall, classified in Class H, with a \$2.10 per ton price for Size Group 3 for truck shipments, is the closest mine to the Viaduct Mine. It appears that the coals of these two mines are substantially of like quality. The proposed relocation of the Viaduct Mine and the alleged quality of its coal appears to justify its reclassification from "F" to "H" for Size Group 3 for rail shipment and a change from a price of \$2.25 to \$2.10 per ton for coals in the same size group for truck shipment. Analogous coals of Subdistrict 5 are similarly classified and priced for rail and truck shipment.

In view of the foregoing circumstances, it is believed that a reasonable showing of necessity has been made for the granting of the relief requested. This relief will enable this producer to compete on a fair basis with other code members of District 1 for these prices conform to those established for comparable coals.

Upon the basis of the uncontroverted evidence I find and conclude: (1) That the classifications, minimum prices and seam designations shown in the schedules hereto attached for the coals specified therein are proper and should be established; that said classifications and minimum prices, changing the classifications and minimum prices established for the Viaduct Mine in Docket No. A-356, are in proper relation to those established for analogous and similar coals in Subdistrict 5 of District 1; and (2) that said amendment of the price schedule for District 1 is required in order to effectuate the purposes of section 4 II (a) and section 4 II (b) of the Act and to comply with the standards thereof.

Now, therefore, it is ordered, That commencing forthwith § 321.7 (Alphabetical list of code members) is amended by adding thereto Supplement R, and § 321.24 (General prices) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

Dated: September 2, 1941.

[SEAL]

H. A. GRAY,  
*Director*

**PERMANENT SUPPLEMENT**

NOTE: The material contained in these permanent supplements is to be read in the light of the classifications, prices, instructions, exceptions, and other provisions contained in Part 321, Minimum Price Schedule for District No. 1 and supplements thereto.

**FOR ALL SHIPMENTS EXCEPT TRUCK**

**§ 321.7 Alphabetical list of code members—Supplement R**

[Alphabetical listing of code members having railway loading facilities, showing price classification by size group numbers]

Mine index No.	Code member	Mine name	Sub-district No.	Seam	Freight origin group No.	1	2	3	4	5
570	Viaduct Coal Co.....	Viaduct.....	5	A	30	(1)	(1)	H	(1)	(1)

<sup>1</sup> Indicates no classifications effective for these size groups.

**FOR TRUCK SHIPMENTS**

**§ 321.24 General prices—Supplement T**

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine index No.	Mine	Sub-district No.	County	Seam	All lump coal double screened top size 2' and over					Double screened top size 2' and under		Run of mine modified R/M		2' and under slack		34'' and under slack	
						1	2	3	4	5	1	2	3	4	5	1	2	3
Viaduct Coal Co.-----	570	Viaduct.-----	5	Jefferson.-----	A	(1)	(1)	(1)	210	(1)	(1)							

<sup>1</sup> Indicates no prices effective for these size groups.

[F. R. Doc. 41-7077; Filed, September 22, 1941; 11:04 a. m.]



PART 324—MINIMUM PRICE SCHEDULE,  
DISTRICT No. 4

ORDER GRANTING TEMPORARY RELIEF AND  
CONDITIONALLY PROVIDING FOR FINAL RE-  
LIEF IN THE MATTER OF THE PETITION OF  
DISTRICT BOARD NO. 4 FOR THE ESTABLISH-  
MENT OF PRICE CLASSIFICATIONS AND MIN-  
IMUM PRICES FOR THE COALS OF CERTAIN  
MINES IN DISTRICT NO. 4

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 4; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth: and

No petitions of intervention having been filed with the Division in the above-entitled matter, except as hereinafter noted; and

It appearing that this action is necessary in order to effectuate the purposes of the Act;

*It is ordered*, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 324.7 (*Alphabetical list of code members*) is amended by adding thereto Supplement R-I, § 324.8 (*Numerical list of mines*) is amended by adding thereto Supplement R-II, § 324.2 (*Seasonal discounts*) is amended by adding thereto Supplement

NOTE: The material in these supplements is to Schedule for District No. 4 and supplements thereto.

R-III, § 324.9 (*Recapitulation of price classifications*) is amended by adding thereto Supplement R-IV, § 324.11 (*Special prices—(a) Railroad fuel prices for all movements exclusive of lake cargo for railroad fuel*) is amended by adding thereto Supplement R-V, and § 324.24 (*General prices in cents per net ton for shipment into all market areas*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

District Board No. 2 filed a petition of intervention in the above-entitled matter, alleging in substance that the reestablishment of price classifications and minimum prices, as proposed in the original petition for the "Pittsburgh Coal Company Mine," (Mine Index No. 222) of the "Pittsburgh Coal Company (Ben Wertz)," would be prejudicial to Pittsburgh Coal Company, a code member in District No. 2, which presently operates mines in District No. 2 known generally as Pittsburgh Coal Company mines, and requesting that no price classifications and minimum prices be established for the coals of Mine Index No. 222. Price classifications and minimum prices are established herein for the coals of Mine Index No. 222 under the code member names of Ben Wertz, Henry Summers, George Youngflesh and Roy Whittlesey rather than under the name of the "Pittsburgh Coal Company." Accordingly, the aforesaid petition of District Board No. 2 is denied, without prejudice.

The original petition proposed the establishment of a minimum price of 295

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 4

Prices contained in Part 324. Minimum Price

[SEAL]

H. A. GRAY,  
*Director.*

cents per net ton for coals in Size Group No. 2 of Negley Coal Mine (Mine Index No. 223) of the Negley Coal Company (A. H. McMinn). Since a minimum price of 290 cents per net ton has been established for similar coals in Columbiana County in subdistrict No. 7 in District No. 4, a minimum price of 290 cents per net ton is established herein for the coals of Mine Index No. 223.

Certain errors appear in the original petition concerning the names of code members and mines and the assignment of freight origin group numbers. On the basis of facts shown in the official records of the Division these errors have been corrected as follows:

The Kaspar Mine (Mine Index No. 1300) of Albert Kaspar (Kaspar Coal Company) named in the original petition has been listed in Supplement R of this Order as the Kaspar Mine (Mine Index No. 2869) of the Kaspar Coal Company No. 2 (Herman Werry);

The Eliza Mulford Mine (Mine Index No. 1265) of Eliza Mulford named in the original petition has been listed in Supplement R of this Order as the Gallia Mine (Mine Index No. 1264) of the Mulford Coal Company (Dale Mulford) :

The freight origin group number for Mine Index No. 1236 of Clark, Clark, Clifton and Beam (Burgin Beam) has been determined by using the shipping points of Hobson on the New York Central Railroad and Middleport on the Chesapeake and Ohio Railroad, since the original petition erroneously named Middleport as a point on the Baltimore Ohio Railroad.

The original petition listed Salesville and Barnesville on the Baltimore & Ohio Railroad as the shipping points for the coals of the Mike Yanosik Mine (Mine Index No. 1922) of Mike Yanosik. Because these two points are located in different subdistricts, resulting in a differential in applicable freight rates, Salesville, the shipping point nearest this mine, has been used in assigning a freight origin group number for this mine.

Since it appears from the petition that the coals of Mine Index No. 1922 are similar in quality to those of the Morgan Mine (Mine Index No. 678) of John Morgan which coal is subject to Exception No. 4, § 324.1, in the Schedule of Effective Minimum Prices for District No. 4 For All Shipments Except Truck, this exception is also made applicable to the coals of Mine Index No. 1922.

*It is further ordered*, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

*It is further ordered*, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless the Director shall otherwise order.  
Dated: September 2, 1941.

[SEAL]

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 324.7 *Alphabetical list of code members—Supplement R-I*

[Alphabetical list of code members having railway loading facilities, showing price classification by size group numbers]

[illegible]



## § 324.7 Alphabetical list of code members—Supplement R-I—Continued

Mine index No.	Code member	Mine name	Sub-district No.	Seam	Type	Freight origin group Nos.	Price-classifications by size group Nos.											
							1	2	3	4	5	6	7	8	9	10	11	12
246	Folmer Bros. (Clarence Folmer)	Folmer Bros.	8	8A	Deep	23	K	K	O	O	O	O	O	O	O	O	O	O
1068	Gilmore Coal Co. (Gerald Gilmore)	Jones	7	4	Strip	41	K	K	O	O	O	O	O	O	O	O	O	O
242	Grant Collieries, Inc. (Geo H. E. Donnelly)	Harlem #2	4	Harlem	Strip	55	K	K	O	O	O	O	O	O	O	O	O	O
245	Hessler Brothers (Leo R. Hessler)	Grant #3	4	6	Strip	53	K	K	O	O	O	O	O	O	O	O	O	O
252	Hutson, T. C. (T. C. Hutson Coal Company)	Twin Oaks-Strip	4	6	Strip	58	K	K	O	O	O	O	O	O	O	O	O	O
1500	Jennings & Caley	Jennings & Caley	4	6	Strip	12	K	K	O	O	O	O	O	O	O	O	O	O
2699	Kaspar Coal Co. #2 (Herman Werry)	Kaspar	1	6	Strip	13	K	K	O	O	O	O	O	O	O	O	O	O
2800	Leone, Tony (Leone Coal Company)	Little Valley	8	6	Strip	39	K	K	O	O	O	O	O	O	O	O	O	O
2168	Lambert, Ellis	No. 1	8	6	Strip	51	K	K	O	O	O	O	O	O	O	O	O	O
2884	Magnolia Mining Company, The	Magnolia	4	5 & 6	Strip	73	K	K	O	O	O	O	O	O	O	O	O	O
2243	Marsden, Marshall A.	Rock Camp	4	6 & 7	Strip	29	K	K	O	O	O	O	O	O	O	O	O	O
1204	Mulford Coal Co. (Dale Mulford)	Gallia	8	8	Strip	29	K	K	O	O	O	O	O	O	O	O	O	O
1207	Near Mining Co. (A. H. McMinn)	Negley Coal	4	7	Strip	73	K	K	O	O	O	O	O	O	O	O	O	O
233	Oliver & Son, Henry (Henry Oliver)	Pearl Hysall	4	8	Strip	29	K	K	O	O	O	O	O	O	O	O	O	O
1207	Oliver & Son, Henry (Henry Oliver)	Oliver	4	8	Strip	29	K	K	O	O	O	O	O	O	O	O	O	O
237	Riggs, Archie (Orchard Hill Coal Mine)	Orchard Hill	7	8	Strip	43	K	K	O	O	O	O	O	O	O	O	O	O
1225	Roush Bros. (Alva Roush)	Roush	8	8	Strip	23	K	K	O	O	O	O	O	O	O	O	O	O
238	Stock Coal Company	Stock	1	8	Strip	18	K	K	O	O	O	O	O	O	O	O	O	O
656	Wertz, Ben, Henry Summers, Geo. Youngflesh, Roy Whittlesey.	Stock	1	8	Strip	11	K	K	O	O	O	O	O	O	O	O	O	O
222	Yanosik, Mike	Mike Yanosik	2	8	Strip	13	R	R	R	R	R	R	R	R	R	R	R	R
1022																		

1 Subject to Exception No. 4, § 324.1 (b) in Price Schedule No. 1.

## § 324.8 Numerical list of mines—Supplement R-II

Mine index No.	Mine name	Code member	Freight origin districts	Freight origin group Nos.	Railroad	Sub-district No.
222		Wertz, Ben, Henry Summers, Geo. Youngflesh, Roy Whittlesey.	Ohio No. 8.	11	B. & O.	1
223	Negley Coal	Negley Coal Company (A. H. McMinn).	Lestonia.	73	P. L. & W.	4
232	Oliver	Oliver & Son, Henry (Henry Oliver).	Pomeroy	29	C. & O., N. Y. C.	8
233	Chaney	Chaney, Fred	Middle	55	W. & L. E.	4
238	Roush	Roush Bros. (Alva Roush)	Pomeroy	23	C. & O.	8
242	Harlem #2	Grant Collieries, Inc. (Geo H. E. Donnelly).	Middle	55	W. & L. E.	4
243	Rock Camp	Marshall Mining Company	Lestonia.	73	P. L. & W.	4
245	Grant #3	Hessler Brothers (Leo R. Hessler)	Middle	53	P. L. & W.	4
246	Folmer Bros.	Folmer Bros. (Clarence Folmer)	Pomeroy	23	C. & O.	8
252	Twin Oaks-Strip	Hutson, T. C. (T. C. Hutson Coal Company).	Middle	58	W. & L. E.	4
516	Lucy	Cirolli, Angelo	Ohio No. 8.	11	B. & O.	1
597	Little Valley	Leone, Tony (Leone Coal Company).	Ohio No. 8.	12	B. & O.	1
656	Stock	Stock Coal Company.	Ohio No. 8.	18	W. & L. E.	1
877	Ebenezer.	Finnezer Coal Co. (M. F. Cannon).	Crooksville	32	N. Y. C.	0

## § 324.8 Numerical list of mines—Supplement R-II—Continued

Mine index No.	Mine name	Code member	Freight origin districts	Freight origin group Nos.	Railroad	Sub-district No.
1068	Jones	Gilmore Coal Co. (Gerald Gilmore).	Jackson	41	B. & O.	7
1225	Orchard Hill	Riggs, Archie (Orchard Hill Coal Mine).	Jackson	43	C. & O.	7
1236		Clark, Clark, Clifton & Beam (Burgin Beam).	Pomeroy	29	N. Y. C., C. & O.	8
1264	Gallia	Mulford Coal Co. (Dale Mulford).	Pomeroy	29	C. & O., N. Y. C.	8
1297	Pearl Hysall	New Mining Co. (John Jeffers).	Pomeroy	29	C. & O., N. Y. C.	8
1500	Jennings & Caley	Jennings & Caley	Middle	55	W. & L. E.	4
1859	Elkhorn	Elkhorn Coal Mine.	Middle	52	N. Y. C.	8
1922	Mike Yanosik	Yanosik, Mike	Cambridge	13	B. & O.	3
2169	No. 1	Lambert, Ellis	Pomeroy	29	N. Y. C., C. & O.	8
2303	Miller	Miller, Marshall A.	Pomeroy	29	N. Y. C., C. & O.	8
2304	Burn Rite Coal	Burn Rite Coal Co. (Mike Mercuro).	Leetonia.	73	P. L. & W.	4
2859	Kaspar	Kaspar Coal Co. #2 (Herman Werry).	Pomeroy	23	C. & O.	8
2884	Magnolia	Magnolia Mining Company, The.	Middle	51	B. & O.	4



## § 324.9 Recapitulation of price classifications—Supplement R-IV—Continued

Freight origin districts	Freight origin group Nos.	Additional freight origin group Nos.	Mine index Nos.	Additional mine index Nos.
Middle	52	53	6, 158, 172, 183, 108	Add mine index Nos. 1839, 2884
	55, 56		9, 24, 32, 52, 135	Add mine index Nos. 233, 1590
	55		5, 48, 110	Add mine index Nos. 242, 252
Leetonia	72, 74	Add 73	3, 77, 159, 166	Add mine index Nos. 223, 243, 2304

Prices as shown in § 324.9, 324.10, 324.11 (b), 324.11 (c) and 324.11 (d) in the Schedule of Effective Minimum Prices apply to all additional mine index numbers hereinabove noted.

## § 324.11 Special prices—(a) Railroad fuel prices for all movements exclusive of lake cargo railroad fuel—Supplement R-V

(Railroad fuel prices for all movements exclusive of lake cargo railroad fuel from mines indexed below. For shipment to railroads as shown—see schedule of effective minimum prices, § 324.11 (a))

Name of railroad	Mine index Nos.	Additional mine index Nos.
Baltimore & Ohio Railroad Co.	10, 21, 30, 33, 39, 49, 58, 71, 72, 78, 81, 85, 87, 95, 96, 103, 104, 106, 116, 121, 124, 128, 134, 136, 144, 146, 147, 151, 155, 157, 160, 162	Add mine index Nos. 222, 516, 597, 1068, 1922
Chesapeake & Ohio Railway Co.	8, 25, 133, 153, 161	Add mine index No. 2884
	14, 38, 41, 47, 61, 70, 72, 75, 76, 82, 85, 101, 105, 112, 113, 130, 131, 168, 170, 171	Add mine index Nos. 232, 238, 246, 1225, 1236, 1254, 1297, 2169, 2303, 2869
New York Central System	1, 4, 6, 18, 22, 27, 28, 34, 35, 47, 54, 59, 64, 66, 73, 74, 83, 90, 91, 100, 107, 109, 125, 126, 138, 141, 143, 156, 158, 172, 169	Add mine index Nos. 232, 877, 1256, 1264, 1267, 1859, 2169, 2803
Pennsylvania Railroad Co.	3, 77, 26, 32, 42, 43, 52, 81, 99, 102, 122, 127, 135, 145, 154, 157, 164	Add mine index Nos. 243, 2304
Wheeling & Lake Erie Railway Co.	3, 12, 37, 45, 110, 119	Add mine index Nos. 233, 656, 1500
Akron, Canton & Youngstown Railway Co.		Add mine index Nos. 242, 252
Ann Arbor Railroad Co.		
Canadian National Railways and Grand Trunk Railway System		
Canadian Pacific Railway Co.		
Detroit and Mackinac Railway Company		
Detroit & Toledo Shore Line Railroad Co.		
Erie Railroad		
Nickel Plate Road (New York, Chicago & St. Louis Railroad Co.)		
Pere Marquette Railway Co.		
For all Railroads not shown above		

Prices as shown in § 324.11 (a) in the Schedule of Effective Minimum Prices apply to all additional mine index numbers hereinabove noted.

## § 324.2 Seasonal discounts—Supplement R-III

(Seasonal discounts: On all shipments of coal in Size Groups 1 or 2, the discounts shown below in cents per net ton may apply. The date of shipment and not the date of sale shall govern the seasonal price applicable. These seasonal discounts apply for shipments to all market areas except Market Areas 1 to 13, inclusive, 98 and 99 (Great Lakes), River Shipments, Vessel Fuel and Railroad Fuel)

Freight origin districts	Freight origin group Nos.	Additional freight origin group Nos.	Mine index Nos.	Additional mine index Nos.	Amount of discount for shipments during the month of—			
					April	May	June	July
Ohio No. 8	9, 10, 11, 12, 14, 15, 17, 18, 19		10, 21, 26, 30, 31, 34, 35, 42, 43, 54, 55, 56, 57, 65, 78, 81, 99, 102, 103, 107, 111, 114, 115, 116, 122, 123, 124, 127, 128, 144, 145, 147, 152, 157, 164, 167	Add Mine Index Nos. 222, 516, 597, 656	30	20	10	
Cambridge	13		87, 121	Add Mine Index No. 1922	30	20	10	
Pomeroy	23, 25	Add 29	14, 22, 38, 70, 82, 100, 101, 105, 112, 113	Add Mine Index Nos. 232, 238, 246, 1236, 1254, 1297, 2169, 2303, 2869	50	40	30	20
Crooksville	31, 32, 33, 34, 36		4, 28, 66, 85, 91, 104, 106, 125, 128, 143, 146, 155, 156, 160, 162, 163	Add Mine Index No. 877	30	20	10	
Jackson	41, 42, 43		2, 131, 134	Add Mine Index Nos. 1068, 1223	50	40	30	20
Middle	52		6, 158, 172	Add Mine Index No. 1859	30	20	10	
	52	Add 51, 53	13, 108	Add Mine Index Nos. 245, 2884	30	20	10	
	55, 56		9, 24, 32, 52, 135	Add Mine Index Nos. 233, 1590	30	20	10	
	55		5, 48, 110	Add Mine Index Nos. 242, 252	30	20	10	
Leetonia	72, 74	Add 73	3, 77, 159, 166	Add Mine Index Nos. 223, 243, 2304	30	20	10	

Seasonal discounts as shown in § 324.2 in the Schedule of Effective Minimum Prices apply to all additional mine index numbers hereinabove noted.

## § 324.9 Recapitulation of price classifications—Supplement R-IV

(Prices for all rail shipment from mines indexed below into market areas as shown. For shipment into all market areas—see schedule of effective minimum prices, § 324.9 and 324.10. Also applies to market areas 98 and 99 (Great Lakes) § 324.11 (b) and 324.11 (c), and vessel fuel, § 324.11 (a))

Freight origin districts	Freight origin group Nos.	Additional freight origin group Nos.	Mine index Nos.	Additional mine index Nos.
Ohio No. 8	9, 10, 11, 12, 14, 15, 17, 18, 19		10, 21, 26, 30, 31, 34, 35, 42, 43, 54, 55, 56, 57, 65, 78, 81, 99, 102, 103, 107, 111, 114, 115, 116, 122, 123, 124, 127, 128, 144, 145, 147, 152, 157, 164, 167	Add mine index Nos. 222, 516, 597, 656
Cambridge	13		87, 121	Add mine index No. 1922
	13		87-121 (subject to exception No. 4, page 3)	Add mine index No. 1922
Pomeroy	23, 25	Add 29	14, 22, 38, 70, 82, 100, 101, 105, 112, 113	Add mine index Nos. 232, 238, 246, 1236, 1254, 1297, 2169, 2303, 2869
Crooksville	31, 32, 33, 34, 36		4, 28, 66, 85, 91, 104, 106, 125, 138, 143, 146, 155, 156, 160, 162, 165	Add mine index No. 877
Jackson	41, 42, 43		2, 131, 134	Add mine index Nos. 1068, 1223



§ 324.24 General prices in cents per net ton for shipment into all market areas—  
Supplement T—Continued

Code member index	Mine	Mine Index No.	Seam	Base sizes							
				0" lump	3" 4"-6" lump	2" lump	2" x 4" egg	2" x 5" egg	1 1/2" x 4" egg	Mine run	Nut and pea
SUB-DISTRICT NO. 8— POMEROY—Continued	MEIGS COUNTY			1	2	3	4	5	6	7	8
Folmer Bros. (Clarence Folmer) Hysell & Miller (Howard Hysell) Johnson Coal Co. (Worthie Johnson)	Folmer Bros. H. & M. Johnson	246 246 237	8A 8 8	295	285	275	250	245	195	140	140
				295	285	275	250	245	195	140	141
				295	285	275	250	245	195	140	140
				295	285	275	250	245	195	140	140

[F. R. Doc. 41-7078; Filed, September 22, 1941; 11:04 a. m.]

[Docket No. A-1025]

PART 325—MINIMUM PRICE SCHEDULE,  
DISTRICT NO. 5

ORDER GRANTING TEMPORARY RELIEF AND  
CONDITIONALLY PROVIDING FOR FINAL RE-  
LIEF IN THE MATTER OF THE PETITION OF  
BITUMINOUS COAL PRODUCERS BOARD FOR  
DISTRICT NO. 5 FOR THE ESTABLISHMENT  
OF PRICE CLASSIFICATIONS AND MINIMUM  
PRICES FOR THE COALS PRODUCED AT THE  
SWAN CREEK MINE (MINE INDEX NO. 104)  
OF THE SWAN CREEK MINING COMPANY, A  
CODE MEMBER IN DISTRICT NO. 5, FOR  
TRUCK SHIPMENTS

An original petition, pursuant to sec-  
tion 4 II (d) of the Bituminous Coal Act  
of 1937, having been duly filed with this  
Division by the above named party, re-  
questing the establishment, both tem-  
porary and permanent, of price classi-  
fications and minimum prices, for truck  
shipments for the coals produced at the  
Swan Creek Mine (Mine Index No. 104)  
of the Swan Creek Mining Company, a  
code member in District No. 5; and

The Director finding that a reasonable  
showing of necessity has been made for  
the granting of temporary relief in the  
manner hereinafter set forth; and

No petitions of intervention having  
been filed with the Division in the above-  
entitled matter; and

The Director deeming his action nec-  
essary in order to effectuate the purposes  
of the Act;

Now, therefore, it is ordered, That,  
pending final disposition of the above-  
entitled matter, temporary relief is  
granted as follows: Commencing forth-  
with, § 325.23 (General prices; shipment  
by truck into all market areas) is  
amended by adding thereto Supplement  
T, which supplement is hereinafter set  
forth and hereby made a part hereof.

It is further ordered, That pleadings  
in opposition to the original petition in  
the above-entitled matter, and applica-  
tions to stay, terminate or modify the  
temporary relief herein granted, may  
be filed with the Division within forty-  
five (45) days from the date of this  
Order, pursuant to Rules and Regula-  
tions Governing Practice and Procedure  
Before the Bituminous Coal Division in  
Proceedings Instituted Pursuant to sec-  
tion 4 II (d) of the Bituminous Coal Act  
of 1937.

It is further ordered, That the relief  
herein granted shall become final sixty  
(60) days from the date of this Order,  
unless the Director shall otherwise order.

Dated: September 11, 1941.

[SEAL] H. A. GRAY,  
Director.

FOR TRUCK SHIPMENTS  
§ 324.24 General prices in cents per net ton for shipment into all market areas—  
Supplement T

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine	Mine Index No.	Seam	Base sizes							
				0" lump	3" 4"-6" lump	2" lump	2" x 4" egg	2" x 5" egg	1 1/2" x 4" egg	Mine run	Nut and pea
SUB-DISTRICT NO. 1—EASTERN OHIO BELMONT COUNTY	Ayers, Joe Wentz, Ben, Henry Summers, Geo. Youngflesh, Roy Whitteley.	224 222	8	285	275	260	235	230	220	200	190
				285	275	260	235	230	220	200	190
				285	275	260	235	230	220	200	190
				285	275	260	235	230	220	200	190
SUB-DISTRICT NO. 4—MIDDLE CARROLL COUNTY	Byers & James (George Byers) Grant Collieries, Inc. (c/o H. E. Don- nelly).	220 242	6 Harlem	275	265	250	225	220	215	200	180
				275	265	250	225	220	215	200	180
				275	265	250	225	220	215	200	180
				275	265	250	225	220	215	200	180
COLUMBIANA COUNTY	Marshall Mining Company, Negley Coal Company (A. H. McMan)	243 223	6 & 7 7	300	290	275	250	245	225	205	195
				300	290	275	250	245	225	205	195
				300	290	275	250	245	225	205	195
				300	290	275	250	245	225	205	195
COSHOCTON COUNTY	Chaney, Fred Leidig, David J.	233 244	6 6	280	270	260	235	230	195	165	155
				280	270	260	235	230	195	165	155
				280	270	260	235	230	195	165	155
				280	270	260	235	230	195	165	155
HARRISON COUNTY	Burnwell Coal Company (J. E. Cross)	225	7	275	265	250	225	220	210	190	180
				275	265	250	225	220	210	190	180
				275	265	250	225	220	210	190	180
				275	265	250	225	220	210	190	180
STARKE COUNTY	Hutson, T. C. (T. C. Hutson Coal Company).	232	5	275	265	250	225	220	210	190	180
				275	265	250	225	220	210	190	180
				275	265	250	225	220	210	190	180
				275	265	250	225	220	210	190	180
TUSCARAWAS COUNTY	Heider Brothers (Leo R. Heider) Loveday, John (John Loveday Coal Co.).	245 220	6 6	275	265	250	225	220	210	190	180
				275	265	250	225	220	210	190	180
				275	265	250	225	220	210	190	180
				275	265	250	225	220	210	190	180
SUB-DISTRICT NO. 5—HOCKING HOCKING COUNTY	Mathena & Co., Riley (Riley W. Mathena).	221	6	295	285	275	250	245	195	165	155
				295	285	275	250	245	195	165	155
				295	285	275	250	245	195	165	155
				295	285	275	250	245	195	165	155
SUB-DISTRICT NO. 7—JACKSON VINTON COUNTY	Irish Ridge Coal Co. (Eugene Campbell)	234 247	7 7	295	285	275	250	245	195	175	165
				295	285	275	250	245	195	175	165
				295	285	275	250	245	195	175	165
				295	285	275	250	245	195	175	165
SUB-DISTRICT NO. 8— POMEROY GALLIA COUNTY	Oliver & Son, Henry (Henry Oliver). Roush Bros. (Alva Roush).	232 238	8 8	295	285	275	250	245	195	140	140
				295	285	275	250	245	195	140	140
				295	285	275	250	245	195	140	140
				295	285	275	250	245	195	140	140



## TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 5

NOTE: The material contained in this supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 325, Minimum Price Schedule for District No. 5 and supplements thereto.

## FOR TRUCK SHIPMENTS

## § 325.23 General prices; shipment by truck into all market areas

[Prices in cents per net ton for shipment into all market areas]

Code member index	Mine	County	Mine Index No.	Seam	Lump 4' or larger than	Lump 3'	Lump 2'	Lump smaller and	5' x 3' egg	5' x 2' egg	4' x 2' egg	3' x 2' egg	3' x 1 1/2' stove	2' x 1 1/2' nut	1 1/4' x 1/4' stoker	Mine run	4' resulant	N-P-8 2' x 0	1 1/4' x 0 slack	1' x 0 slack	(R) 1/4' x 0 reject	(H) 1/4' x 0 reject	(W) 1/4' x 0 reject
Swan Creek Mining Co. c/o John Milano The above prices in Size Groups 5 to 18, inclusive, are for raw coal. When washed or mechanically cleaned they shall be increased by.....	Swan Creek	Saginaw	104	Midigan	460	455	450	430	420	410	405	400	385	360	310	355	330	300	290	280	150	125	75
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19

When coal is shipped by truck into Market Area No. 21 from any mine in District No. 5, the above prices may be reduced 35 cents per net ton, provided the delivery to the destination into Market Area No. 21 is under the control of the producer.

[F. R. Doc. 41-7079; Filed, September 22, 1941; 11:04 a. m.]

[Dockets Nos. A-89, A-289, A-337, A-352, A-352a, A-539 and A-540]

## PART 328—MINIMUM PRICE SCHEDULE, DISTRICT NO. 8

MEMORANDUM OPINION AND ORDER APPROVING AND ADOPTING THE PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE EXAMINER AND GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITIONS OF TRUAX-TRAEER COAL COMPANY REQUESTING FREE ALONGSIDE PRICES ON SALES TO CHAMPION PAPER & FIBER COMPANY; THE CITY OF CINCINNATI AND THE BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF CINCINNATI FOR AN ORDER ESTABLISHING FREE ALONGSIDE PRICES; THE COUNTY OF HAMILTON, OHIO, FOR THE ESTABLISHMENT OF FREE ALONGSIDE PRICES; CONSUMERS' COUNSEL FOR FREE ALONGSIDE PRICES FROM DISTRICTS 8, 9 AND 10 FOR THE OLD QUAKER COM-

pany, LAWRENCEBURG, INDIANA; IN THE MATTER OF THE REVISION OF RIVER PRICES IN DISTRICT 3 FOR DELIVERY OF HIGH VOLATILE COAL TO JOSEPH E. SEAGRAM AND SONS, INC., LAWRENCEBURG, INDIANA; IN THE MATTER OF THE PETITIONS OF THE CONSUMERS' COUNSEL DIVISION SEEKING FREE ALONGSIDE PRICES FROM DISTRICTS 8, 9, AND 10 FOR JAMES WALSH AND COMPANY, INC., LAWRENCEBURG, INDIANA, IN MARKET AREA NO. 26; AND THE CONSUMERS' COUNSEL DIVISION SEEKING FREE ALONGSIDE PRICES FROM DISTRICTS 8 AND 9 FOR THE LAWRENCEBURG ROLLER MILLS COMPANY, LAWRENCEBURG, INDIANA, IN MARKET AREA NO. 26

This is a proceeding instituted upon the following original petitions filed with the Bituminous Coal Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937:

Docket No.	Petitioner	Petition filed on behalf of	Date of filing
A-89	Truax-Truax Coal Company (code member in District 8)	Champion Fibre Company	Oct. 5, 1940
A-289	City of Cincinnati, Ohio, and Board of Education of the City of Cincinnati, Ohio.	Petitioners	Oct. 31, 1940
A-337	County of Hamilton, Ohio	Petitioner	Nov. 7, 1940
A-352	Consumers' Counsel Division	Old Quaker Company	Nov. 13, 1940
A-339	Consumers' Counsel Division	James Walsh and Company	Jan. 3, 1941
A-540	Consumers' Counsel Division	Lawrenceburg Roller Mills Company	Jan. 3, 1941

and upon an Order of the Director of the Division, entered December 31, 1940, 6 F.R. 53, providing for inquiry into the free alongside ("f. a. s.") prices effective for shipments of District 8 high volatile coals via river to Joseph E. Seagram and Sons, Inc., at Lawrenceburg, Indiana (Docket No. A-352a). In general, the original petitions request modification of the effective price schedules so as to grant to the consumers named the privilege of purchasing certain coals at the minimum f. a. s. prices in lieu of the presently applicable ex-river prices.

Pursuant to Orders and Notices of Hearing issued by the Director, and after due notice to all interested persons, a hearing was held in these matters before Floyd McGown, an Examiner of the Division, duly designated by the Director to conduct said hearing, on January 10, 11 and 23, 1941.

Thereafter, the Examiner submitted Proposed Findings of Fact and Conclusions of Law, dated June 16, 1941, and an opportunity was afforded to all parties to file exceptions thereto and supporting briefs.

The intervenor Old Quaker Company tardily filed its Exceptions and Brief to the Proposed Findings of Fact and Con-

clusions of Law of the Examiner on July 10, 1941. The exceptant makes no excuse for its failure to file its exceptions within the time provided therefor and gives no reason why it should be permitted to file late. However, no objection to the filing of the exceptions has been made and, while tardiness in such matters should be avoided, the exceptions will be received. Bituminous Coal Consumers' Counsel, tardily filed Exceptions and Supporting Brief to the Proposed Findings of Fact and Conclusions of Law of the Examiner on July 18, 1941, and on July 18, 1941, filed a motion to be permitted to file said Exceptions late. There was no objection to such motion, and it is hereby granted.

No other Exceptions or Briefs were filed.

The Old Quaker Company excepts to the failure of the Examiner to recommend that relief be made retroactive to October 1, 1940, the effective date of minimum prices. Consumers' Counsel excepts to the failure to provide retro-

<sup>1</sup> Rule 301.110 (§ 301.23 (b) in the Rules of Practice and Procedure) requires exceptions to an Examiner's report to be filed within fifteen days after the report is filed.



active relief to the Old Quaker Company and to James Walsh and Company.

The Examiner found that no satisfactory showing had been made why retroactive relief was necessary and recommended that such relief be denied. I have examined the record and find no evidence to support the granting of retroactive relief. As the Examiner found, retroactive pricing makes for a disorderly price structure. It creates administrative difficulties, which may seriously affect the effectiveness of the Division's regulation. It leads to uncertainty in, and may breed disrespect of, the minimum price structure. Accordingly, such relief should not be granted except on a clear showing of the necessity therefor. I find that no such showing has been made in this record.

It should be noted that though the minimum prices established on October 1, 1940, were promulgated only after extensive hearings conducted by the Division (General Docket No. 15), and such parties as Seagram appeared and introduced evidence affecting its rights to purchase District 8 coals at f. a. s. prices, Old Quaker and Walsh did not appear. Having failed to offer evidence upon which the Examiner and Director could make an informed judgment, they cannot now be heard to complain that similar rights were not then accorded them.

On the basis of the foregoing and on the record, I find that the exceptions of the Old Quaker Company and the Bituminous Coal Consumers' Counsel are not well taken and should be denied, and that the Proposed Findings of Fact and the Conclusions of Law of the Examiner in this matter should be approved and adopted as the Findings of Fact and Conclusions of Law of the Director.

Because at the hearing there arose some doubts concerning the conditions under which f. a. s. prices apply, it is believed that a clarification thereof may be helpful. It has always been recognized that f. a. s. prices apply only where shipments are made and deliveries received by the purchaser in barges. The weights that govern are the railroad weights at the mine.<sup>2</sup> Furthermore, in accordance with Price Instruction 9, consumers purchasing coal on an f. a. s. basis must assume all intervening costs subsequent to and including unloading from the barge. And, of course, f. a. s. prices apply only when the coal delivered to the consumer is the same coal which was loaded at the river loading facilities.

It is, therefore, ordered, That the exceptions filed herein be and they are hereby denied; and said Proposed Findings of Fact and Conclusions of Law of the Examiner be and they are hereby

<sup>2</sup>In the case of producers who are unable to weigh river shipped coal on railroad scales, application may be made to the Division for permission to employ other weighing methods.

adopted as Findings of Fact and Conclusions of Law of the Director; and

It is further ordered, That § 328.13 (Special prices—(a) Prices for river (free alongside deliveries) and ex-river shipments—(iii) Special cases) in the Schedule of Effective Minimum Prices for District 8 for All Shipments Except Truck be and it is hereby amended to provide that any code member may sell high volatile coal at the free alongside prices to the following consumers, subject to the limitations indicated:

(a) Champion Paper & Fibre Company (for consumption at its plant located at Hamilton, Ohio).

(b) The City of Cincinnati, Ohio (for consumption within the city limits).

(c) The Board of Education of the City School District in the City of Cincinnati, Ohio (for consumption within the city limits).

(d) The County of Hamilton, Ohio (for consumption at the County Home, the Court House, and the Tuberculosis Hospital).

(e) Old Quaker Company (for consumption at its plant located at Lawrenceburg, Indiana).

(f) James Walsh & Company, Inc. (for consumption at its plant located at Lawrenceburg, Indiana).

(g) Lawrenceburg Roller Mills Company (for consumption at its plant located at Lawrenceburg, Indiana).

It is further ordered, That the provision in § 328.13 (Special prices—(a) Prices for river (free alongside deliveries) and ex-river shipments—(iii) Special cases) in the District 8 schedule that any code member may sell high volatile coals at the free alongside prices to Joseph E. Seagram & Sons, Inc. (for consumption at its plant located at Lawrenceburg, Indiana), be and it is continued in full force and effect.

It is further ordered, That, except as hereinabove provided, all prayers for relief be and they are hereby denied.

Dated: September 20, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-7118; Filed, September 23, 1941;  
11:33 a. m.]

## TITLE 32—NATIONAL DEFENSE

### CHAPTER IX—OFFICE OF PRODUCTION MANAGEMENT

#### SUBCHAPTER A—GENERAL PROVISIONS

[Regulation No. 3 Amended]

DEFINING THE STATUS OF THE DIVISION OF PRIORITIES OF THE OFFICE OF PRODUCTION MANAGEMENT AND PRESCRIBING THE DUTIES AND FUNCTIONS OF THE DIRECTOR THEREOF

Regulation No. 3 of the Office of Production Management, issued March 8, 1941, is hereby amended to read as follows:

Whereas by Executive Order No. 8629<sup>1</sup> and Executive Order No. 8875<sup>2</sup> the Office of Production Management has been created and charged with certain authority and duties with regard to defense and civilian supply, priorities and allocation, including the authority and duties hereinafter conferred upon the Director of Priorities; and

Whereas there has been established by said Executive Orders a Division of Priorities within the Office of Production Management in charge of a Director appointed by the Office of Production Management with the approval of the President;

Now therefore, by virtue of the authority vested in the Office of Production Management by said Executive Orders it is hereby provided that:

(a) The Director of the Division of Priorities, who shall be known as the Director of Priorities, shall perform the functions and exercise all the power, authority and discretion conferred on the President by section 2 (a) of the Act entitled "An Act to Expedite National Defense and for Other Purposes," approved June 28, 1940, and by Public No. 89, 77th Congress, First Session, entitled "An Act to Amend the Act Approved June 28, 1940, entitled 'An Act to Expedite National Defense, and for Other Purposes,' in order to extend the power to establish priorities and allocate material," approved May 31, 1941.

(b) The Director of Priorities shall have authority to propose action under section 9 of the Selective Training and Service Act of 1940, and all proposals for such action, whether originating with him or with any directors of any other division of the Office of Production Management or with any other official of the Government, shall be submitted by him, with his recommendation, to the Director General, the Associate Director General, the Secretary of War and the Secretary of the Navy, constituting the Council of the Office of Production Management, for such directions as they may give.

(c) The Director of Priorities shall review, clear, and approve for execution all requests or proposals originating from other Federal agencies, private industry, or other sources for priority action with respect to the procurement, production, transmission, or transportation of materials, articles, power, fuel, and other commodities; issue or provide for the issuance of all priority orders, warrants, certificates, or ratings with respect to the supply, production, transmission, or transportation of materials, articles, power, fuel, and other commodities; and, with reference to specific priority authorities vested by law in established departments and agencies of the Government, certify to

<sup>1</sup>6 F. R. 191.

<sup>2</sup>6 F. R. 4483.



such departments and agencies, when he deems such action necessary to national defense, that preferential treatment is essential for certain materials, commodities, facilities or services. On ultimate military items, the Director of Priorities shall be guided by categories of military preferences, including the modification of existing categories, as set forth from time to time by the Army and Navy Munitions Board.

(d) The Director of Priorities shall, in consultation with the United States Maritime Commission, determine when, to what extent, and in what manner priorities shall be accorded to deliveries of material as provided in section 2 (a) (3) of Public No. 46, 77th Congress, First Session, entitled "An Act to Make Emergency Provision for Certain Activities of the United States Maritime Commission, and for Other Purposes," approved May 2, 1941. Deliveries of material shall take priority as provided in said Act in accordance with such determinations and the orders issued in pursuance thereof by the Director of Priorities.

(e) The Director of Priorities may establish such organization as he deems necessary to the adequate execution of the authority and duties vested in him, including the employment of personnel. He shall obtain the approval of the Director General of the Office of Production Management, acting in association with the Associate Director General, for the creation of the principal administrative subdivisions within the Division of Priorities.

(f) The Director of Priorities may exercise the powers, authorities or discretion conferred upon him through such officials of the Government, including the contracting and procurement officers and inspectors of the War and Navy Departments, and in such manner as he may determine, subject to such policies or regulations as may be adopted from time to time by the Office of Production Management, and subject to such policies or regulations as may be adopted from time to time by the Supply Priorities and Allocations Board.

(g) The Director of Priorities shall have authority to designate an Assistant or Deputy Director to serve as Acting Director of Priorities in the event of his absence or inability to act, subject to the approval of the Director General of the Office of Production Management acting in association with the Associate Director General.

(h) The Director of Priorities shall make such reports of his actions pursuant to this Regulation as may be required from time to time by the Office of Production Management.

(i) All existing rules, regulations, orders, directions and actions of the Di-

rector of Priorities are hereby ratified and confirmed and shall remain in full force and effect until they expire by their terms or are specifically repealed or amended.

September 2, 1941.

WILLIAM S. KNUDSEN,  
Director General.

SIDNEY HILLMAN,  
Associate Director General.

ROBERT P. PATTERSON,  
Acting Secretary of War.

JAMES FORRESTAL,  
Acting Secretary of the Navy.

Approved:

JOHN LORD O'BRIAN,  
General Counsel.

Attest:

HERBERT EMMERICH,  
Secretary.

Approved:

FRANKLIN D. ROOSEVELT,  
The White House,  
Date: Sept. 12, 1941.

[F. R. Doc. 41-7095; Filed, September 22, 1941;  
5:11 p. m.]

#### SUBCHAPTER B—PRIORITIES DIVISION

##### PART 928—TO RESTRICT INVENTORY ACCUMULATION OF CERTAIN SPECIFIED MATERIALS

##### Termination of General Metals Order No. 1

Whereas, § 928.1 (Priorities Division, General Metals Order No. 1) as amended, imposes restrictions on the accumulation of inventories of certain specified materials, and

Whereas § 944.14 of Regulation No. 1 of the Priorities Division of the Office of Production Management imposes restrictions on the accumulation of inventories of any material whatever, similar to those imposed by said § 928.1, which restrictions render unnecessary the continuance of said § 928.1 (Priorities Division General Metals Order No. 1)

Now, therefore, it is ordered, That § 928.1 (Priorities Division, General Metals Order No. 1), as amended, is hereby terminated.

(P.D. Reg. 1, Aug. 27, 1941, 6 F.R. 4489; O.P.M. Reg. 3, March 8, 1941, 6 F.R. 1596, as amended Sept. 2, 1941; E.O. 8629, Jan. 7, 1941, 6 F.R. 191; E.O. 8875, Aug. 28, 1941, 6 F.R. 4483; sec. 2 (a), Public No. 671, 76th Congress, Third Session, as amended by Public No. 89, 77th Congress, First Session; sec. 9, Public No. 783, 76th Congress, Third Session)

Issued this 23d day of September 1941, effective immediately.

DONALD M. NELSON,  
Director of Priorities.

[F. R. Doc. 41-7102; Filed, September 23, 1941;  
10:04 a. m.]

#### PART 978—UTILITIES

##### Maintenance, Repair and Supplies; Interpretation of Preference Rating Order P-46

The following official interpretation is hereby issued by the Director of Priorities with respect to § 978.1, Preference Rating Order P-46,<sup>1</sup> issued September 17, 1941.

Section 978.1 permits the application of the preference rating therein assigned to purchase orders of Material for maintenance, repair or operating supplies placed by a Producer prior to the effective date of such Preference Rating Order. The preference rating assigned may be applied to such purchase orders by filing with the Supplier of the Material a duplicate copy of the purchase order theretofore placed, endorsed in the manner specified in paragraph (d) of the Order.

Issued this 23d day of September, 1941.

DONALD M. NELSON,  
Director of Priorities.

[F. R. Doc. 41-7101; Filed, September 23, 1941;  
10:04 a. m.]

#### SUBCHAPTER B—PRIORITIES DIVISION

##### [Preference Rating Order P-56, Amendment]

##### PART 982—MINES

##### Maintenance, Repair, and Supplies

Section 982.1 Preference rating order P-56<sup>2</sup> is hereby amended as follows:

Paragraph (a) (2) is amended to read as follows:

##### (a) Definitions.

(2) "Mine" means any plant actually engaged in the extraction by surface, open-pit or underground methods, or in the beneficiation, concentration or preparation for shipment of the products of mining activity. It does not include that form of mining known as "gold placer mining."

Paragraph (b) is amended to read as follows:

(b) Certification of mines—(1) Domestic mines. The agency designated by the Governor or other chief executive officer of each state, territory or possession of the United States shall furnish in duplicate to the Office of Production Management a certificate setting forth the names of the persons operating Mines within such state, territory or possession. The Office of Production Management will thereupon issue a Mine Serial Number, through such state agency, to each such person who may be approved by the Director of Pri-

<sup>1</sup> 6 F.R. 4784.

<sup>2</sup> 6 F.R. 4786.



ortities. Any person aggrieved by failure or refusal of a state agency to certify him as a Mine Operator may apply in writing to the Director of Priorities for issuance of a Mine Serial Number. The Director of Priorities may thereupon take such action as he deems appropriate.

(2) *Foreign mines.* The Director of Priorities may, in his discretion, issue a Mine Serial Number to a person operating a Mine outside the limits of the United States, its territories and possessions.

Paragraph (c) is amended to read as follows:

(c) *Assignment of preference ratings.* Subject to the terms of this Order, the following preference ratings are hereby assigned, but nothing herein contained shall prevent the use of any other or higher rating to which any person may be entitled by reason of any other Preference Rating Certificate or Order.

(1) A-1-a to deliveries to a Mine Operator of material essential for emergency repair of a Mine, as approved by the Office of Production Management pursuant to paragraph (e) (1).

(2) A-8 to deliveries to a Mine Operator of material required for emergency inventory or for operating supplies or for maintenance of a Mine.

(3) A-8 to deliveries to a Supplier.

(i) Of material required by a Mine Operator for maintenance, emergency repair, emergency inventory or operating supplies of a Mine, and

(ii) Of material to be physically incorporated in other material so required by a Mine Operator.

Paragraph (e) (2) is amended to read as follows:

(e) *Application of preference ratings.*

(2) A Mine Operator or a Supplier, in order to apply the A-8 preference rating assigned by paragraph (c) (2) and (3), must endorse the following statement on the original and all copies of each purchase order or contract for material, the delivery of which is entitled to such preference rating:

Purchase order for Materials for a Mine rated pursuant to Preference Rating Order P-56, Mine Serial No. .... Rating A-8. This application of the rating is made pursuant to the terms and conditions of that Order, with which the undersigned is familiar.

(Name of Mine Operator or Supplier)

By: \_\_\_\_\_  
(Authorized Signature)

Such purchase order or contract so endorsed shall be delivered to the seller of such material. Such endorsement shall constitute a certification to the Office of Production Management that the Mine Operator or Supplier is entitled to apply such rating to such delivery pursuant to this Order. Such purchase order or contract must be in writing and shall not include any material the delivery of which is not rated pursuant to this Order.

Paragraph (n) is amended to read as follows:

(n) *Amendment of prior order.* The provisions of Preference Rating Order P-22 shall not apply to deliveries to which a preference rating is assigned by this Order.

This amendment shall take effect immediately. (P.D. Reg. 1, Aug. 27, 1941, 6 F.R. 4489; OPM Reg. 3, March 8, 1941, 6 F.R. 1596; E.O. 8629, Jan. 7, 1941, 6 F.R. 191; E.O. 8875, Aug. 28, 1941, 6 F.R. 4483; sec. 2 (a), Public No. 671, 76th Congress, Third Session, as amended by Public No. 89, 77th Congress, First Session; sec. 9, Public No. 783, 76th Congress, Third Session.)

Issued this 22d day of September 1941.

DONALD M. NELSON,  
Director of Priorities.

[F. R. Doc. 41-7093; Filed, September 22, 1941;  
2:32 p. m.]

## CHAPTER XI—OFFICE OF PRICE ADMINISTRATION

### PART 1304—IRON AND STEEL SCRAP

#### PRICE SCHEDULE NO. 4 AMENDED

§ 1304.16 *Appendix A, maximum prices for iron and steel scrap other than railroad scrap*, of Price Schedule No. 4<sup>1</sup> is hereby amended by striking out subparagraph (a) of paragraph II thereof and inserting in its stead the following:

(a) *For shipping points located within a basing point.* The price established above for the Basing Point in which the Shipping Point is located, is determined. There are then deducted from this price the actual costs involved in transporting scrap from the Shipping Point to the consumer's plant within the Basing Point which is nearest, in terms of transportation costs, to the Shipping Point; except that the Shipping Point Price within the Cincinnati Basing Point, for all grades other than No. 1 Cupola, Heavy Breakable Cast, Stove Plate, Machinery Cast, Cupola Size, No. 1 Machinery Cast, drop-broken, 150 lbs. & under, and Clean Auto Cast, shall in no case exceed the Basing Point Price of the specified grade, minus 80 cents. (E.O. 8734, 6 F.R. 1917)

§ 1304.17 *Appendix B, maximum prices for iron and steel scrap originating from railroads*, of Price Schedule No. 4 is hereby amended by adding thereto the following paragraph:

#### V

*Maximum Prices for Scrap Rails and Rails for Rerolling Originating From Mines, Logging Roads, Etc.*

A *Shipping Point* is the point from which the scrap is to be shipped to a consumer.

The *Shipping Point Price* is the price f. o. b. the Shipping Point.

<sup>1</sup> 6 F.R. 2986, 3061, 3985, 4417, 4615.

The maximum Shipping Point Price of Scrap Rails and Rails for Rerolling originating from mines, logging roads, and similar sources shall be the price set forth in Paragraph I above for Scrap Rails and Rails for Rerolling at the Basing Point nearest, in terms of transportation charges, to the Shipping Point, minus the lowest established charge for transporting such rails from the Shipping Point to such Basing Point, except that the maximum Shipping Point Price need in no case be less than \$13.50 per gross ton for Scrap Rails and \$15.00 per gross ton for Rails for Rerolling. The maximum delivered price of such rails shall be the Shipping Point Price thus established, plus the lowest actual charge for transporting the rails from the Shipping Point to the consumer.<sup>2</sup> (E.O. 8734, 6 F.R. 1917)

Issued this 22d day of September 1941.

LEON HENDERSON,  
Administrator.

[F. R. Doc. 41-7094; Filed, September 22, 1941;  
3:37 p. m.]

## Notices

### WAR DEPARTMENT.

[Contract No. W 7029 qm-7; O. I. No. 41-7]

#### SUMMARY OF FIXED-FEE CONTRACT FOR ARCHITECT-ENGINEER SERVICES

ARCHITECT-ENGINEER: H. M. GALLAGHER, DOING BUSINESS AS J. F. COLEMAN ENGINEERING COMPANY, 1023 CARONDELET BUILDING, NEW ORLEANS, LOUISIANA

Amount fixed fee: \$31,265.

Estimated cost of construction project: \$2,843,500.

Type of construction project: Rehabilitation of Charleston Port of Embarkation.

Location: Charleston, S. C.

Type of service: Architect-Engineer.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. QM 8875 PL29-77 A0540-12 the available balance of which is sufficient to cover the cost of same.

This contract, entered into this 6th day of June 1941.<sup>3</sup>

*Description of the work.* The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project: Rehabilitation of existing Quartermaster facilities at Charleston, South Carolina.

*Data to be furnished by the Government.* The Government shall furnish the Architect-Engineer available schedules of preliminary data, layout sketches, and other information respecting sites, topography, soil conditions, outside utili-

<sup>2</sup> In paragraph (b) of § 1304.7 of this Schedule the following statement appears: "... rerolling rails scrap must be diverted to rerolling mills and not cut for melting purposes."

<sup>3</sup> Approved by the Under Secretary of War June 14, 1941.



ties and equipment as may be essential for the preparation of preliminary sketches, and other information respecting sites, topography, soil conditions, outside utilities and equipment as may be essential for the preparation of preliminary sketches and the development of final drawings and specifications.

*Fixed-fee and reimbursement of expenditures.* In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following:

a. A fixed fee in the amount of thirty-one thousand, two hundred sixty-five dollars (\$31,265) which shall constitute complete compensation for the Architect-Engineer's services.

b. In addition to the payment of the fixed fee as specified herein, the Architect-Engineer will be reimbursed for such of his actual expenditures in the performance of the work as may be approved or ratified by the Contracting Officer.

*Method of payment.* Payments shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, with original certified pay rolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and 90% of the amount of the Architect-Engineer's fixed fee earned. Upon completion of the project, the Architect-Engineer shall be paid the unpaid balance of any money due the Architect-Engineer hereunder.

*Drawings and other data to become property of Government.* All drawings, designs and specifications are to become the property of the Government.

The Contracting Officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

*Termination for cause or for convenience of the Government; reduction in forces.* The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

When in the opinion of the Contracting Officer the Architect-Engineer's personnel and/or overhead is excessive for the proper performance of this contract, reductions thereof shall be made as required by the Contracting Officer.

This contract is authorized by the following laws:

Public No. 611—76th Congress, Approved June 13, 1940.

Public No. 703—76th Congress, Approved July 2, 1940.

FRANK W. BULLOCK,  
Major, Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-7098; Filed, September 23, 1941;  
9:36 a. m.]

[Contract No. W 7082 qm-2; O. I. No. 2]

# SUMMARY OF COST PLUS A FIXED FEE CONSTRUCTION CONTRACT

CONTRACTORS: DANIEL CONSTRUCTION COMPANY AND A. B. GUION & COMPANY, BOX 650 ANDERSON, S. C., AND BOX 1188, CHARLOTTE, N. C., RESPECTIVELY

Fixed-fee: \$23,250.00.

Additional Optional Fixed Fee: \$87,555.00.

Contract for: Rehabilitation of existing Quartermaster facilities.

Place: Charleston, South Carolina.

Estimated Cost of project: \$426,750.00.

Additional Optional Cost: \$2,305,945.00.

The work and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. QM-18283 CBU and A A0540-N the available balance of which is sufficient to cover the cost of same.

This contract,<sup>1</sup> entered into this 3rd day of June, 1941.

*Statement of work.* The Contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work:

Rehabilitation of existing Quartermaster facilities including rebuilding and reconditioning present warehouses, utilities and appurtenances and the construction of necessary buildings, temporary structures, utilities and appurtenances thereto at Charleston, South Carolina, all as more generally described in Appendix "B" but limited to those buildings and structures for which an estimate is made in section 7, of Appendix "B".

It is estimated that the total cost of the construction work covered by this Article will be approximately four hundred twenty-six thousand, seven hundred and fifty dollars (\$426,750.00), exclusive of the Contractor's fee.

In consideration for his undertaking under this contract the Contractor shall receive the following:

(a) Reimbursement for expenditures as provided in Article II.

(b) Rental for Contractor's equipment as provided in Article II.

(c) A fixed-fee in the amount of twenty-three thousand two hundred and fifty dollars (\$23,250.00) which shall constitute complete compensation for the Contractor's services, including profit and all general overhead expenses.

The Contracting Officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

<sup>1</sup> Approved by the Under Secretary of War June 14, 1941.

The title to all work, completed or in the course of construction, shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site and upon inspection and acceptance in writing by the Contracting Officer, title to all materials, tools, machinery, equipment and supplies, for which the Contractor shall be entitled to be reimbursed under Article II, shall vest in the Government.

*Payments—Reimbursement for cost.* The Government will currently reimburse the Contractor for expenditures made in accordance with Article II upon certification to and verification by the Contracting Officer of the original signed pay rolls for labor, the original paid invoices for materials, or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

*Rental for contractor's equipment.* Rental as provided in Article II for such construction plant or parts thereof as the Contractor may own and furnish shall be paid monthly upon presentation of proper vouchers.

*Payment of the fixed-fee.* The fixed-fee prescribed in Article I shall be compensation in full for the services of the Contractor, including profit and all general overhead expenses. Ninety percent (90%) of said fixed-fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer.

*Final payment.* Upon completion of the work and its final acceptance in writing by the Contracting Officer, the Government shall pay to the Contractor the unpaid balance of the cost of the work determined under Article II hereof, and of the fee.

*Termination of contract by Government.* Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

*The performance of optional work.* The Government may at its option elect to have the Contractor perform the work and services hereinafter set forth in this Article:

*Statement of optional work.* The Contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work:

Rehabilitation of existing Quartermaster facilities including rebuilding and reconditioning present warehouses, utilities and appurtenances and the construc-



tion of necessary buildings, temporary structures, utilities and appurtenances thereto, all as more generally described in Appendix "B" but limited to those buildings and structures shown on page 6 thereof.

**Estimated cost of optional work.** It is estimated that the total cost of the optional construction work covered by this Article will be approximately Two Million, Three Hundred Five Thousand, Nine Hundred Forty-five dollars (\$2,305,945.00) exclusive of the Contractor's fee.

**Fixed-fee for optional work.** In consideration for his undertaking under this Article the Contractor shall receive a fixed-fee in the amount of Eighty Seven Thousand, Five Hundred Fifty-five dollars (\$87,555.00) which shall constitute complete compensation for the Contractor's services under this Article, including profit and all general overhead expenses.

This contract is authorized by the following law.

Public 703—76th Congress, Approved July 2, 1940.

FRANK W. BULLOCK,  
Major, Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-7099; Filed, September 23, 1941;  
9:36 a. m.]

[Contract No. W-398-qm-27; O. I. #27]

#### SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: FORD MOTOR COMPANY,  
DEARBORN, MICHIGAN

Contract for: Trucks, \* \* \*  
Amount, \$1,029,250.00.

Place: Holabird Quartermaster Depot,  
Baltimore, Maryland.

This contract, entered into this 30th day of June 1941.

**Scope of this contract.** The contractor shall furnish and deliver \* \* \* Trucks, \* \* \*, for the consideration stated, Total \$1,029,250.00, and in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

**Changes.** Where the supplies to be furnished are to be specially-manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

**Delays—Damages.** If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

**Payments.** The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either \$1,000 or 50 percent of the total amount of the contract.

**Variations.** Quantities listed hereon are subject to increase of not to exceed \* \* \* vehicles. This increase option to remain in effect until \* \* \*.

**Terms of payment.** Discount will be allowed for prompt payment as follows: 30 calendar days \* \* \* per vehicle.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to procurement authority QM-22000, P-241-30, A-0022-13, the available balance of which is sufficient to cover cost of same.

This contract authorized under the provision of Act of July 2, 1940 (Public No. 703—76th Congress.)

FRANK W. BULLOCK,  
Major, Signal Corps,  
Assistant to the Director of  
Purchases and Contracts.

[F. R. Doc. 41-7100; Filed, September 23, 1941;  
9:55 a. m.]

#### DEPARTMENT OF THE INTERIOR.

##### Bituminous Coal Division.

[Docket No. A-950]

PETITION OF THE BITUMINOUS COAL CONSUMERS' COUNSEL FOR AN ALTERATION IN THE BOUNDARY LINES OF MARKET AREA 114 AND FOR A REDUCTION IN THE EFFECTIVE MINIMUM PRICES IN SIZE GROUPS 23-29, INCLUSIVE, FOR COALS PRODUCED IN DISTRICT NO. 9, FOR SHIPMENT TO CERTAIN DESTINATIONS IN THE NEWLY DEFINED MARKET AREA 114

##### NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

*It is ordered,* That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on October 21, 1941, at 10:00 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

*It is further ordered,* That W. A. Cuff or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such mat-

ter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before October 14, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of the Bituminous Coal Consumers' Counsel for temporary and permanent order:

1. Redefining the boundaries of Market Area 114 as follows:

"Market Area 114: Tennessee, Nashville and Old Hickory and all points in the switching limits thereof; all points on the Nashville, Chattanooga and St. Louis railroad from Nashville to and including Hermitage; all points on the Tennessee Central railroad from Nashville to and including Stone River; all points on the Tennessee Central Railroad from Stone River to and including Old Hickory; all points on the Louisville & Nashville railroad to and including Madison (north of Nashville) and Mayton (south of Nashville)."

2. Amending the Schedule of Effective Minimum Prices for District No. 9 for All Shipments Except Truck by including on page 11 thereof the following notation:

"On shipments of coal in Size Groups 23-29, inclusive, to Maplewood, Madison, Mt. Olivet, Radnor and Mayton, in Mar-



ket Area 114, 10 cents may be deducted from the prices shown herein."

Dated: September 20, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-7112; Filed, September 23, 1941;  
11:31 a. m.]

[Docket No. A-1017]

PETITION OF DISTRICT BOARD NO. 1 FOR  
REVISION OF PRICE CLASSIFICATIONS AND  
MINIMUM PRICES FOR COALS OF CERTAIN  
MINES IN DISTRICT NO. 1

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provision of said Act and the rules of the Division be held on October 20, 1941, at 10:00 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Joseph A. Huston of any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before October 14, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amend-

ment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board No. 1 for the revision of price classifications and minimum prices of the coals of certain mines located in District No. 1 as follows:

For Truck Shipments

By changing the price classifications and reducing the minimum prices for certain sizes of coals of the following mines:

Behun Mine (Mine Index No. 1066), Michael W. Behun;

The Harvey Mine (Mine Index No. 2855), Arthur Harvey;

The Mack Mine (Mine Index No. 1687), Frank McMillen (Mack Coal Company);

The Roth Mine (Mine Index No. 2423), E. A. Roth (Roth Coal Mining Company);

The Freeport No. 1 Mine (Mine Index No. 1066), Thomas Dailey;

Grove Coal Company Mine (Mine Index No. 1455), Grove Coal Company;

By changing the price classifications and increasing the minimum prices for certain sizes of coals of The White No. 6 Mine (Mine Index No. 652), James A. White Coal Company;

For All Shipments Except Truck

By establishing an F classification, For All Shipments Except Truck, in Size Groups 3, 4, and 5 for a mixture of the coals of the White No. 1 Mine (Mine Index No. 651), the White No. 2 Mine (Mine Index No. 488), the White No. 3 Mine (Mine Index No. 2651), White No. 4 Mine (Mine Index No. 2981), the White No. 5 Mine (Mine Index No. 804), and the White No. 6 Mine (Mine Index No. 652) of the James A. White Coal Company;

By changing the price classifications and reducing the minimum prices for certain sizes of coals of the following mines:

The Freeport No. 1 Mine (Mine Index No. 1066), Thomas Dailey;

Grove Coal Company Mine (Mine Index No. 1455), Grove Coal Company;

By changing the price classification and increasing the minimum price for certain sizes of coals of the White No. 6 Mine (Mine Index No. 652), James A. White Coal Company.

Dated: September 20, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-7113; Filed, September 23, 1941;  
11:31 a. m.]

[Docket No. 1780-FD]

IN THE MATTER OF EDWIN R. EBERHART,  
DEFENDANT

ORDER CHANGING PLACE OF HEARING

The above-entitled matter having been heretofore scheduled for hearing at 10

o'clock in the forenoon of October 10, 1941, at a hearing room of the Bituminous Coal Division at the First National Bank Building, Bellaire, Ohio; and

The Director deeming it advisable that said place of hearing should be changed:

Now, therefore, it is ordered, That the hearing in the above-entitled matter be changed from a hearing room of the Bituminous Coal Division at the First National Bank Building, Bellaire, Ohio, to a hearing room of the Bituminous Coal Division at the New Post Office Building at Canton, Ohio, at the time heretofore designated and before the officer previously designated to preside at said hearing.

Dated: September 20, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-7114; Filed, September 23, 1941;  
11:32 a. m.]

[Docket No. A-1021]

PETITION OF JAMES ARMSTRONG, ET AL.,  
CODE MEMBERS IN SUBDISTRICT 7 OF DISTRICT 19 FOR REVISION OF THE NUMBER AND DESCRIPTION OF THE SIZE GROUPS AND REVISION OF THE EFFECTIVE MINIMUM PRICES FOR THE COALS, FOR TRUCK SHIPMENT, PRODUCED AT THE MINES IN THAT SUBDISTRICT

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named parties;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on November 17, 1941, at 10 o'clock in the forenoon of that day, at the County Court House, Sheridan, Wyoming.

It is further ordered, That Scott A. Dahlquist or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for pro-



ceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before November 12, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of James Armstrong, et al., code members in Subdistrict 7 of District No. 19, for revision of the number and description of the size groups and revision of the effective minimum prices for the coals, for truck shipment, produced at the mines in that Subdistrict; and, more particularly, for (1) a reduction from 13 to 7 in the number of and changes in the descriptions of the size groups, as set forth below, for those coals and (2) an increase in such prices for those coals produced at Mine Index Nos. 33, 104, 132, 143 and 160 to the following prices in cents per net ton f. o. b. the mines:

	Size group						
	1	2	3	4	5	6	7
	8" lump	1½" lump	8" x egg	3" x 1½" nut	1½" x 1" pea	1½" x 0	Mine run
Price....	310	290	310	275	275	200	250

and (3), for those coals produced at the other mines in Subdistrict 7, an increase in such prices to establish for those coals a price differential of 15 cents per net ton below the prices hereinabove set forth.

Dated: September 22, 1941.

[SEAL] H. A. GRAY,  
Director.

[F. R. Doc. 41-7115; Filed, September 23, 1941; 11:32 a. m.]

[Docket No. A-164]

PETITION OF THE MALLORY COAL COMPANY FOR A CHANGE IN THE PRICE OF MINE RUN (SIZE GROUP 27) COAL FOR SHIPMENT VIA TIDEWATER TO MARKET AREA 1 FOR WATER GAS, RETORT AND BY-PRODUCT USE

MEMORANDUM OPINION AND ORDER FOR AND NOTICE OF REOPENING OF HEARING

The original petition in this matter was filed on October 16, 1940, by Mallory Coal Company ("Mallory"), a code member in District 8, pursuant to section

4 II (d) of the Bituminous Coal Act of 1937 (the "Act"), seeking a reduction from \$2.10 to \$1.80 per net ton in the effective minimum price f. o. b. the mine for coal in Size Group 27 (run-of-mine and resultants), produced at its mines Nos. 4 and 5, for tidewater shipment to Lowell Gas Light Company ("Lowell"), Lowell, Massachusetts, for water gas, retort and by-product use.

Intervening petitions were filed by District Boards 1, 2, 3, 7, 8, Pocahontas Fuel Company, et al (code members in District 7); Carbon Fuel Company and Amherst Coal Company and Logan County Coal Corporation, jointly, (code members in District 8); and Koppers Coal Company (a code member in Districts 7 and 8). Barrows & Company, Inc., a registered distributor, also filed a petition for intervention. Consumers' Counsel entered its appearance.

Informal conferences with respect to temporary relief were held on November 1 and December 11, 1940, and on January 29, 1941, pursuant to the Rules and Regulations governing Practice and Procedure in 4 II (d) Proceedings, and temporary relief granted by Orders of the Director, which reduced by 30 cents per net ton the effective minimum prices for tidewater shipments of Size Group 27 high volatile coals from Districts 7 and 8 to Lowell for retort gas use, limiting the quantities which might be shipped at that reduced price, as follows: The Order dated November 23, 1940, limited the temporary relief to shipments aggregating not more than 7,000 tons from all producers; the Order of December 17, 1940, limited the aggregate to an additional 7,000 tons; the Order of February 6, 1941, permitted an additional 9,000 tons to be shipped prior to February 28, 1941; and the Order of March 3, 1941, permitted a further 9,000 tons to be shipped prior to March 31, 1941.

On April 24, 1941, Mallory filed a Motion to extend the temporary relief to apply to shipments of an additional 7,500 tons made prior to June 15, 1941. However, on May 2, 1941, Mallory withdrew this motion.

Pursuant to Orders and notices of hearing issued by the Director, and after due notice to all interested persons, a public hearing was held in this matter before Travis Williams, a duly designated Examiner of the Division, on November 18-20, 1940. On May 17, 1941, the Examiner submitted Proposed Findings of Fact and Conclusions of Law, and an opportunity was then afforded to all parties to file exceptions thereto and supporting briefs.

The Examiner reported, in part, as follows (p. 8):

It must, of course, be recognized that one of the standards to be met by the effective minimum prices is the proper "competitive relationships between coal and other forms of fuel and energy." However, the prices must also comply with other standards of section 4 II (b), such as preserving the existing fair competitive opportunities of other coals.

Hence, any reduction in the minimum prices necessary to meet the challenge of competitive fuels must be appraised in the light of the effect thereof upon the existing fair competitive opportunities of other coals in the same market, as well as in the light of other criteria prescribed by section 4 of the Act.

The record does not lend itself to an easy determination of these problems. The original petitioner based its case upon the theory that the consumer Lowell can and probably will convert to oil unless the price of the coal in question is reduced. District Boards 2 and 3, opposing this requested reduction, concentrated their case upon the effect which the relief sought would have on the price structure. Neither attempted directly to controvert the other.

After considering the testimony as to the effect of the price reduction requested by Mallory upon competitive coals, he said (p. 7):

It is obvious that granting the relief requested would permit Lowell to purchase coal at a price less than other plants using the same kind of coal for the same purpose. Consumer inequality is not desirable and generally brings in its train further complaints; it should therefore be averted, in the absence of overriding statutory considerations and policy. Petitioner, however, confined itself to the facts relating specifically to Lowell. No testimony was adduced to show whether the situation at Lowell is typical of competitive conditions throughout New England or whether they are exceptional. Under this theory the Division is required to take into account "competitive relationships between coal and other forms of fuel and energy" at specific plants. Thus, two plants within the same area might purchase the same coal at different minimum prices depending upon the actual cost of conversion at each plant. It is not inconceivable that there would be a different minimum price for sales to each plant in any given area. The situation thus created would be highly undesirable.

There are a number of plants in New England using coal for the manufacture of water gas, and in view of the testimony of the witnesses Magee, Klumpp, and Buckley as to the effect of the relief requested in the entire price structure, it seems only proper that a consideration of the competitive relationships between coal and oil should have involved at least Market Areas 1 and 2. The Act requires the coordination of minimum prices for competing coals in "common consuming market areas," not at specific plants. It would more nearly accord with the spirit of the Act if a consideration of competitive relationships between coal and other forms of fuel were conducted on a market area basis.

I am, therefore, of the opinion that it may be advisable to reopen the hear-

<sup>1</sup> The witness Magee is Vice-President of Carbon Fuel Company.



ing in this matter to permit the introduction of evidence regarding the general situation as to competitive fuels in the entire market area. "Competitive relationships between coal and other forms of fuel and energy" not only at Lowell but at all consuming plants similarly situated should be considered if a properly coordinated and sound price structure is to be maintained.

Mallory has excepted to the Examiner's Findings in these and other respects, alleging that the Examiner failed to take account of the determinations made or related matters in General Docket No. 15, in which it is stated, "the broad competitive picture of Market Areas 1 and 2 was explored in great detail," that if any hearing be reopened it should be that in General Docket No. 15, and that the reopening of the hearing in this matter would unduly delay final disposition of the instant petition, bringing about the conversion which the petition sought to avert.

It does not seem, however, that the delay consequent to a reopening of this hearing will presently endanger the competitive status of Mallory's or other coals insofar as the Lowell plant is concerned. It should be noted that no temporary relief is now effective; apparently the Mallory coals are now moving to the Lowell plant at no less than the effective minimum prices. There is no indication that present marketing conditions will radically alter before the reopened hearing can be held and a final order issued in this matter.

The importance of fully exploring the effect of competitive fuels in the entire of Market Areas 1 and 2, and in handling that problem on a market area basis justifies the slight delay incidental to a resumption of the hearing.

Moreover, since the hearing in this matter was held on November 18-20, 1940, emergency conditions and the exigencies of the defense effort have somewhat altered the pace of the national economy, with probable effects on bituminous coal markets and on the matters involved in this proceeding. Particularly is it likely that transportation and distribution facilities for bituminous coals in the New England and the Eastern section of the United States have been somewhat affected.

Similarly the costs of competitive fuels and of converting for use of such fuels very likely have changed. Proper determination of the issues here involved with a view toward maintaining a sound price structure cannot be made without further inquiry into matters such as those noted above.

It is the opinion of the Director, therefore, that in accordance with the recommendation of the Examiner, this cause be reopened for the purpose of receiving evidence with respect to the competitive relationships between coal and other forms of fuel and energy in Market Areas 1 and 2, both insofar as the Lowell plant and other plants are concerned.

Upon the termination of the reopened hearing, the Examiner should submit a supplemental report, and Mallory and other parties be permitted to file supplemental exceptions thereto.

Now, therefore, it is ordered, That the hearing in the above-entitled matter be, and it hereby is, reopened generally for the purpose of receiving evidence directed to the question of the competitive relationships between coal and other forms of fuel and energy in Market Areas 1 and 2 with specific reference to any individual consumer plant or plants therein and with respect to such relationships generally.

It is further ordered, That the Examiner's Report and Mallory's exceptions thereto, now on file, stand as submitted and filed, and that, upon the close of the reopened hearing, the Examiner submit a supplemental report, Proposed Findings of Fact, Proposed Conclusions of Law, and recommendations of an appropriate Order, upon all the evidence and the record.

It is further ordered, That said hearing, as reopened, be held on October 15, 1941, at 10 o'clock a. m., at a hearing room of the Bituminous Coal Division, 734 15th Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Travis Williams or any other officer or officers of the Division duly designated for that purpose shall preside at the reopened hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein.

The matter concerned herewith is in regard to a petition of the Mallory Coal Company, a code member in District 8, for a reduction in the price of mine run coal (Size Group 27) produced at the Mallory Mines Nos. 4 and 5 when shipped to Lowell Gas Light Company, Lowell, Massachusetts, via tidewater for water gas, retort and by-product use, to \$1.80 per net ton f. o. b. the mines.

Dated: September 22, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-7116; Filed, September 23, 1941; 11:32 a. m.]

[Docket No. A-657]

PETITION OF DISTRICT BOARD 6 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT No. 6

MEMORANDUM OPINION AND ORDER GRANTING TEMPORARY RELIEF AND NOTICE OF AND ORDER FOR HEARING

This is a proceeding instituted upon an original petition filed by District Board 6 requesting the establishment of price classifications and minimum prices, for all shipments, for the coals of certain mines in District No. 6.

By Order of March 17, 1941, price classifications and minimum prices were temporarily established, *inter alia*, for the coals of the Devenney #2 Mine (Mine Index No. 31) of the Wheeling Valley Coal Corporation for all shipments. A subsequent Order, dated July 18, 1941, rescinded the Order of March 17, 1941, in so far as it established price classifications and minimum prices for the coals of the Devenney #2 Mine (Mine Index No. 31) for river and ex-river shipments.

Thereupon the original petitioner filed a motion stating that the Devenney #2 Mine had river loading facilities; that during the effective period of the Order of March 17, 1941, Wheeling Valley Coal Corporation made commitments for the shipment by river of approximately 5,000 tons of coal from the Devenney #2 Mine; and that the Order of July 18, 1941, would seriously embarrass Wheeling Valley Coal Corporation. Petitioner thereupon requested the re-establishment of price classifications and minimum prices for river and ex-river shipments from the Devenney #2 Mine.

It is, therefore, ordered, That a reasonable showing of the necessity therefor having been made, pending final disposition of the above matter, temporary relief be and it is hereby granted as follows: Coals of the Devenney #2 Mine (Mine Index No. 31) of the Wheeling Valley Coal Corporation shall be subject to the price classifications and minimum prices established by the Order of March 17, 1941, for river and ex-river shipments. The temporary relief herein granted shall extend to coal for river and ex-river shipments in fulfillment of contracts or commitments entered into by Wheeling Valley Coal Corporation between March 17, 1941, and July 18, 1941, but in no event shall the aggregate of the tonnage so shipped be in excess of 5000 tons.

It is further ordered, That the Wheeling Valley Coal Corporation shall file forthwith with the Division in Washington, D. C., verified copies of all commitments or contracts entered into between March 17, 1941, and July 18, 1941, for the sale of coal, for river or ex-river shipment, from its Devenney #2 Mine. All invoices or credit memoranda for shipments made pursuant to this order shall be so marked, and in addition thereto Wheeling Valley Coal Corpora-



tion shall file with the Division in Washington, D. C., semimonthly reports showing the tonnage of each shipment made under this order, the shipping point, purchaser, destination, use, f. o. b. mine price, and any additional costs paid by the seller on behalf of the purchaser.

*It is further ordered,* That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on October 13, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street, N.W., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

*It is further ordered,* That Joseph A. Huston or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before October 8, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the establishment of price classifications and minimum prices for river and ex-river shipments from the Devenney #2 Mine of the Wheeling Val-

ley Coal Corporation, a code member in District No. 6.

Dated: September 20, 1941.

[SEAL]

H. A. GRAY,  
Director.

[F. R. Doc. 41-7117, Filed, September 23, 1941;  
11:32 a. m.]

## DEPARTMENT OF AGRICULTURE.

### Agricultural Adjustment Administration.

[NER-500-A-1]

#### SPECIAL 1941 AGRICULTURAL CONSERVATION PROGRAMS FOR THE NORTHEAST REGION, SUPPLEMENT NO. 1

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148), as amended, the Special 1941 Agricultural Conservation Programs for the Northeast Region are amended as follows:

1. Item 4, subsection A, section I, is amended to read as follows:

*Farm acreage allotments.* A potato acreage allotment shall be determined for each farm for which the normal acreage of potatoes is determined to be three acres or more. No potato acreage allotment shall be less than 3 acres unless it is reduced because there was planted on the farm less than 80 percent of the farm's potato allotment.

Potato acreage allotments shall be determined on the basis of the acreage of potatoes customarily grown on the farm, as reflected in the average acreage during two or more of the years 1936 to 1940, production facilities, good soil management, tillable acreage on the farm, type of soil, and topography. Potato acreage allotments may be determined for farms on which potatoes will be produced in 1941 for the first time since 1936 on the basis of the potato-producing experience of the operator and such of the foregoing factors as are applicable. The potato acreage allotment for any farm shall compare with the potato acreage allotments for other farms in the same community which are similar with respect to such factors. The potato allotments determined for farms in a county shall not exceed their proportionate share of the county potato allotment.

2. Item 3, subsection B, section I is amended to read as follows:

*Commercial vegetables* means the planted acreage of annual vegetables or truck crops and the harvested acreage of perennial vegetables, of which any portion of the production is sold to persons not living on the farm, except (1) such crops grown in home gardens for use on the farm; (2) potatoes; (3) dried beans, cowpeas, blackeyed peas, bulbs

and flowers, and watermelons; and (4) sweet potatoes, strawberries, and cantaloupes, except in areas designated by the Agricultural Adjustment Administration upon recommendation of the State committee: *Provided*, That all or any part of any vegetable acreage totally destroyed by flood, freeze, insects, or any other cause beyond the control of the operator, which is later replaced by other acreage planted to vegetables on the farm, may be considered as not having been planted; *Provided further*, That in determining the acreage of commercial vegetables in 1941, the acreage of tomatoes, corn, peas, snap beans, and lima beans grown for processing shall not be considered as commercial vegetables.

3. Item 4, subsection B, section I, is amended to read as follows:

*Payment:* \$1.30 for each acre in the commercial vegetable acreage allotment determined for the farm, or if the acreage of commercial vegetables plus the acreage of tomatoes, corn, peas, snap beans, and lima beans grown for processing is less than 80 percent of the farm's commercial vegetable allotment, for an acreage equal to 125 percent of the acreage of commercial vegetables plus the acreage of tomatoes, corn, peas, snap beans, and lima beans grown for processing unless the county committee finds that the acreage of commercial vegetables plus the acreage of tomatoes, corn, peas, snap beans, and lima beans grown for processing is less than 80 percent of such allotment because of flood or drought.

4. Item 7, subsection C, section I, is amended to read as follows:

*Non-wheat-allotment farm* means (a) any farm for which no wheat allotment was determined prior to September 1, 1940; (b) any farm notified of a usual acreage of wheat, but for which no written request was filed by the operator prior to September 1, 1940, to consider the farm a wheat allotment farm; (c) any farm for which the operator filed with the county committee prior to September 1, 1940, a written request to have the farm considered as a non-wheat allotment farm; (d) any farm, mistakenly classified as a wheat allotment farm, on which the acreage planted to wheat in excess of the farm wheat allotment was plowed or disked down, pastured, cut for hay or ensilage, or cut and left on the land not later than June 14, 1941, in New Jersey, June 20, 1941, in Pennsylvania, and July 1, 1941, in New York; and (e) any other farm, mistakenly classified as a wheat allotment farm, with a wheat acreage allotment of 15 acres or less and on which the acreage planted to wheat is more than 15 acres.

5. Item 8, subsection C, section I, is amended to read as follows:

*Acreage planted to wheat* means (a) any acreage of land devoted to seeded wheat (except when such crop is seeded



in a mixture containing 25 percent or more by weight of rye, barley, or vetch), or (b) any acreage of land which is seeded to a mixture containing wheat designated under (a) above but on which the crops other than wheat fail to reach maturity and the wheat reaches maturity: *Provided*, That any acreage of land devoted to seeded wheat in excess of the acreage allotment on a non-wheat-allotment farm shall not be considered as planted to wheat if the acreage in excess of the allotment is plowed down, pastured, converted into ensilage, or cut for hay, or otherwise utilized for soil-building purposes by clipping and leaving on the land not later than June 14, 1941, in New Jersey; June 20, 1941, in Pennsylvania; and July 1, 1941, in New York.

6. Item 9, subsection C, section I, is amended to read as follows:

*Payment:* (Non-wheat-allotment farms on which the acreage planted to wheat on the farm does not exceed its wheat acreage allotment and wheat allotment farms) 8 cents per bushel of the program yield of wheat for the farm for each acre in its wheat allotment, or if the acreage planted to wheat is less than 80 percent of the farm's wheat allotment, for an acreage equal to 125 percent of the acreage of wheat unless the county committee finds that the acreage of wheat is less than 80 percent of such allotment because of flood or drought.

7. Item 2, subsection D, section I, is hereby deleted.

8. Item 2, subsection F, section II, is hereby amended to read as follows:

*Windham and New London Counties, Connecticut.* Each farm on which there are at least five bovine animal units may be furnished triple or 20% superphosphate and ground limestone in accordance with the following schedule for improving open pasture land at the rate of 2,000 pounds of ground limestone and 200 pounds of triple superphosphate or its equivalent per acre.

Animal units	Pasture improvement allowance		
	Superphosphate		Limestone
	Triple	20%	
	Pounds	Pounds	Pounds
5 to 9, inclusive.....	100	300	1,000
10 to 14, inclusive.....	200	500	2,000
15 to 19, inclusive.....	300	700	3,000
20 to 24, inclusive.....	400	900	4,000
25 to 29, inclusive.....	500	1,200	5,000
Etc.			

9. Item 2, subsection A, section III, is hereby amended to read as follows:

The deductions with respect to insufficient acreage of grasses or legumes in Nassau and Suffolk Counties shall be regarded as pro rata deductions with respect to the payments computed in connection with commercial vegetable, potato, and wheat acreage allotments. The

deduction for failure to maintain soil-building practices carried out under previous programs shall be divided among the persons who the county committee determines were responsible for the failure to maintain the practices in the proportion that the county committee finds such persons were responsible.

Done at Washington, D. C. this 23rd day of September, 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] GROVER B. HILL,  
Assistant Secretary of Agriculture.

[F. R. Doc. 41-7121, Filed September 23, 1941;  
11:38 a. m.]

#### FEDERAL POWER COMMISSION.

[Docket No. IT-5731]

IN THE MATTER OF THE OHIO PUBLIC SERVICE COMPANY AND THE TOLEDO EDISON COMPANY

ORDER TO SHOW CAUSE AND FIXING DATE OF HEARINGS

SEPTEMBER 20, 1941.

Commissioners: Leland Olds, Chairman, Basil Manly, John W. Scott and Clyde L. Seavey; Claude L. Draper not participating.

Upon application filed September 19, 1941, by The Ohio Power Company, requesting this Commission to take such action as it may deem appropriate looking toward the maintenance of interconnections between the transmission systems of The Ohio Power Company and the transmission systems of The Ohio Public Service Company and The Toledo Edison Company as provided in a certain contract between the parties, dated January 1, 1938;

It appearing to the Commission that:

(a) There is in effect a contract between The Ohio Power Company and The Ohio Public Service Company and The Toledo Edison Company, which contract is dated January 1, 1938, providing for the maintenance of interconnections between the electric transmission systems of the parties, for the sale and interchange of electric energy thereover, which contract is on file with the Commission and is designated The Ohio Power Company Rate Schedule FPG No. 15;

(b) Said contract is by its terms to be effective at least until December, 1942;

(c) Said contract imposes mutual obligations upon the parties thereto relating to the maintenance of service and is a contract relating to service embodied in a rate schedule duly filed with this Commission, in which no change shall be made except in the manner provided in section 205 (d) of the Federal Power Act;

(d) By letter dated September 12, 1941, The Ohio Public Service Company purported to advise The Ohio Power Company that at midnight on Saturday, September 20, 1941, The Ohio Public

Service Company proposes to disconnect all switches by which its electric transmission lines are interconnected with those of The Ohio Power Company, said letter stating that the sole purpose of said disconnection is to bring about an immediate termination of another proceeding against The Ohio Public Service Company which is now being conducted before this Commission, entitled In the Matter of The Ohio Public Service Company, Docket No. IT-5563;

(e) On September 15, 1941, said letter of September 12, 1941, from The Ohio Public Service Company to The Ohio Power Company was read into the record of the hearing in Docket No. IT-5563;

(f) The proposed disconnection by The Ohio Public Service Company of its facilities and those of The Toledo Edison Company from those of The Ohio Power Company will constitute a change in a contract relating to service and may constitute a violation of section 205 (d) of the Federal Power Act unless made with the approval of this Commission;

(g) By letter of this Commission dated September 19, 1941, The Ohio Public Service Company was duly notified of the protest theretofore received from The Ohio Power Company and was directed not to sever the interconnections of its facilities from those of The Ohio Power Company pending the hearing provided for herein;

Wherefore, the Commission orders that:

(A) The Ohio Public Service Company and The Toledo Edison Company show cause if any there be at a public hearing to be held on October 7, 1941, at 9:45 a. m., in the hearing room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., why:

(i) They should not comply with the provisions of section 205 (d) of the Federal Power Act; and

(ii) The Commission should not issue an order under section 202 (b) of the Federal Power Act requiring them to maintain physical connection of their transmission facilities with the facilities of The Ohio Power Company and to exchange electric energy with said Company as provided in the aforesaid contract of January 1, 1938;

(B) Pending said hearing and the determination of the Commission thereon, Respondents shall not sever any of the interconnections between their facilities and those of The Ohio Power Company, provided for in the aforesaid Ohio Power Company Rate Schedule FPG No. 15;

(C) Interested state commissions may participate in said hearing, as provided in § 39.4 of the Rules of Practice and Regulations, under the Federal Power Act.

By the Commission.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 41-7097, Filed, September 23, 1941;  
9:36 a. m.]



## FEDERAL WORKS AGENCY.

[General Order No. 38—Supp. 1]

PROVIDING FOR A CHANGE OF THE EFFECTIVE DATE IN GENERAL ORDER NO. 38 CONSOLIDATING INTO THE OFFICE OF THE FEDERAL WORKS ADMINISTRATOR ALL ADMINISTRATIVE FUNCTIONS OF A LEGAL CHARACTER IN AND OF THE PUBLIC BUILDINGS ADMINISTRATION

Pursuant to the Independent Offices Appropriation Act, 1942, and under authority otherwise conferred upon the Federal Works Administrator, I hereby order that General Order No. 38 (6 F.R. 3527) be amended to provide that the effective date of the order shall read: October 9, 1941.

In testimony whereof, I have hereunto set my hand and official seal at the City of Washington this 16th day of September 1941.

[SEAL]

JOHN N. EDY,  
Acting Administrator.

[F. R. Doc. 41-7096; Filed, September 23, 1941;  
9:36 a. m.]

## SECURITIES AND EXCHANGE COMMISSION.

[File No. 812-199]

IN THE MATTER OF H. K. & W. INVESTMENT CORPORATION

## NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22d day of September, A. D. 1941.

An application having been filed by the above named applicant under and pursuant to the provisions of section 6 (c) of the Investment Company Act of 1940 for an order granting an extension for the date of filing Form N-8B-1;

It is ordered, That a hearing on the aforesaid application be held on October 7, 1941, at 10:00 o'clock in the forenoon of that day in the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise interested parties where such hearing will be held.

It is further ordered, That Willis E. Monty, Esquire or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing on such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice of such hearing is hereby given to the above named applicant and to any other persons whose participation in such

proceedings may be in the public interest or for the protection of investors.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary

[F. R. Doc. 41-7107; Filed, September 23, 1941;  
11:25 a. m.]

[File No. 812-200]

IN THE MATTER OF UNITED STATES LINES, INCORPORATED

## NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 22d day of September, A. D. 1941.

An application having been duly filed by the above named applicant under and pursuant to the provisions of section 6 (c) of the Investment Company Act of 1940 for an order of exemption from the registration requirements of section 8 (b) of the said Act;

It is ordered, That a hearing on such matter under the applicable provisions of the Act and rules and regulations of the Commission thereunder be held on October 3, 1941, at 10:00 o'clock in the forenoon of that day, in the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue Northwest, Washington, D. C. On such day, the hearing room clerk in Room 1102 will advise the interested parties where such hearing will be held.

It is further ordered, That Charles S. Lobingier, Esq. or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing on such application. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 (b) of the Investment Company Act of 1940 and to trial examiners under the Commission's Rules of Practice.

Notice of such hearing is hereby given to the above named applicant and to any other person or persons whose participation in such proceedings may be in the public interest or for the protection of investors.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-7108; Filed, September 23, 1941;  
11:25 a. m.]

[File No. 1-349]

IN THE MATTER OF KEMPER-THOMAS COMPANY \$20 PAR VALUE COMMON STOCK AND \$100 PAR VALUE 7% CUMULATIVE SPECIAL PREFERRED STOCK

ORDER SETTING HEARING ON APPLICATION TO WITHDRAW FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its

office in the City of Washington, D. C., on the 22d day of September, A. D. 1941.

The Kemper-Thomas Company, pursuant to section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to the Commission to withdraw its \$20 Par Value Common Stock and \$100 Par Value 7% Cumulative Special Preferred Stock from listing and registration on the Cincinnati Stock Exchange; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 a. m. on Tuesday, October 14, 1941, at the office of the Securities & Exchange Commission, 1370 Ontario Street, Cleveland, Ohio, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That James C. Gruener, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-7109; Filed, September 23, 1941;  
11:25 a. m.]

[File No. 37-43]

IN THE MATTER OF NEW ENGLAND GAS AND ELECTRIC ASSOCIATION AND ITS SUBSIDIARIES; NEGEA SERVICE CORPORATION (FORMERLY CONGRESS MACHINE ACCOUNTING CORPORATION)

NOTICE OF AND ORDER RECONVENING HEARING AND DESIGNATING NEW TRIAL EXAMINER

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of September, A. D. 1941.

Negea Service Corporation (formerly Congress Machine Accounting Corporation), a subsidiary of New England Gas and Electric Association, a registered holding company, having filed a declaration pursuant to Rule U-13-22 under section 13 of the Public Utility Holding Company Act of 1935, with respect to its organization and conduct of business as a subsidiary service company;

Hearings having been held on said declaration, the last of said hearings having been held on October 30, 1940 and



said hearing having been continued subject to call of the Trial Examiner or by order of the Commission, certain amendments having been filed, involving substantial changes in the proposed organization and conduct of business of said company; and the Trial Examiner designated to preside at said hearing now being engaged in another matter and unable to reconvene the said hearing;

*It is ordered*, That the hearing in these proceedings shall be reconvened on October 14, 1941 at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C., in such room as may be designated by the hearing-room clerk in Room 1102.

*It is further ordered*, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice;

Notice of such reconvened hearing is hereby given to such declarant and to any other person whose participation in such proceeding may be in the public

interest or for the protection of investors or consumers.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-7110; Filed, September 23, 1941;  
11:26 a. m.]

[File No. 37-42]

IN THE MATTER OF APPLIANCE CREDIT  
CORPORATION

NOTICE OF AND ORDER RECONVENING HEARING  
AND DESIGNATING NEW TRIAL EXAMINER

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 20th day of September, A. D. 1941.

Appliance Credit Corporation, a subsidiary of New England Gas and Electric Association, a registered holding company, having filed a declaration pursuant to Rule U-13-22 under section 13 of the Public Utility Holding Company Act of 1935, with respect to its organization and conduct of business as a subsidiary service company;

A hearing having been held on said declaration on October 26, 1939 and said hearing having been continued subject to call of the Trial Examiner; and the

Trial Examiner designated to preside at said hearing now being engaged in another matter and unable to reconvene the said hearing;

*It is ordered*, That the hearing in these proceedings shall be reconvened on October 14, 1941 at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C., in such room as may be designated by the hearing-room clerk in Room 1102.

*It is further ordered*, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such reconvened hearing is hereby given to such declarant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 41-7111; Filed, September 23, 1941;  
11:26 a. m.]